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CANADA

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OFFICIAL REPORT
(HANSARD)

Thursday, June 1, 2000



THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

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THE SENATE

Thursday, June 1, 2000

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

PROPOSAL FOR EARLY RETIREMENT

Hon. Erminie J. Cohen: Honourable senators, the International Association of Fire Fighters is advocating a regulatory change to Canada's Income Tax Act that would allow Canadian firefighters to make adequate pension contributions to enable them to retire before the rigours of the job endanger them or their fellow firefighters.

We do not have to be reminded that firefighting is a dangerous occupation. Despite constant efforts to protect our firefighters, they still face serious risks for the work they do. They are routinely exposed to communicable diseases, hazardous materials and toxic combustibles, and studies show us that there is a probable connection between their occupation and cardiovascular disease and cancers of the brain, the lymphatic system, the colon, the bladder and the kidney. Firefighters are twice as likely to suffer job-related deaths and six times more likely to suffer injuries than other workers. As I mentioned recently in this chamber, the right to refuse unsafe work does not practically exist for them.

Honourable senators, the federal government has taken a first step in the right direction. The Income Tax Act regulation now defines firefighting as a public safety occupation, allowing firefighters to retire at age 55. However, the present maximum pension accrual rate pursuant to the act is 2 per cent for all Canadians. This means firefighters have the ability to retire earlier than most other occupations but are financially penalized for so doing because they cannot contribute more to their pension plans in anticipation of their early retirement.

The International Association of Fire Fighters has requested an increase in the pension accrual rate from 2 per cent to 2.33 per cent, which they have calculated will give them the opportunity to retire with adequate financial provisions. A December 1999 report by the Standing Committee on Finance also acknowledged this inequity and urged the Finance Minister to revisit the current provisions.

I wish to emphasize, honourable senators, the urgency of this request, so that our hard-working, risk-taking firefighters will not be penalized when they seek early retirement as a safeguard to good health. It is time for government to deal with this inequality.

THE RIGHT HONOURABLE BRIAN MULRONEY

ECONOMIC RECORD WHILE IN OFFICE

Hon. Leonard J. Gustafson: Honourable senators, a study by two McGill University professors released today ranks Brian Mulroney as having the best economic record of any Canadian Prime Minister since the Second World War.

Some Hon. Senators: Hear, hear!

Senator Robichaud (*Saint-Louis-de-Kent*): That's a good one! You believe what you read, do you?

Senator Gustafson: The study goes on to say that low-income families fared better under Mr. Mulroney than under the Liberal administration of either Mr. Chrétien or Mr. Trudeau, and credits Mr. Mulroney with being more of an innovator in economic policy than others, with his introduction of free trade as well as the goods and services tax.

Senator Kinsella: Have they not abolished that?

An Hon. Senator: Not yet!

Senator Gustafson: I want this to be a short statement, honourable senators.

Having served two terms as parliamentary secretary to Mr. Mulroney, I just want to say that I told you so. History will repeat this many times.

Some Hon. Senators: Hear, hear!

[Translation]

• (1410)

ROUTINE PROCEEDINGS

CANADA LABOUR CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-12, to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the orders of the day for second reading two days hence.

[English]

ISSUES SURROUNDING RURAL CANADA

NOTICE OF INQUIRY

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that on Thursday, June 8, 2000, I shall call the attention of the Senate to issues surrounding rural Canada.

[Translation]

CENSUS RECORDS

PRESENTATION OF PETITION

Hon. Rose-Marie Losier-Cool: Honourable senators, I have the honour to table a petition whose signatures were collected in Tracadie-Sheila, New Brunswick, by Généalogie Tracadie Inc., urging the government to:

...take the necessary measures to retroactively amend the provisions of the Statistics Act relating to the protection of information going back to 1906, so as to allow access to censuses after a reasonable post-1901 period, beginning with the 1906 census.

[English]

QUESTION PERIOD

FOREIGN AFFAIRS

AMBASSADOR TO THE UNITED STATES—COMMENTS ON PRESIDENTIAL CANDIDATES RUNNING FOR ELECTION

Hon. Gerald J. Comeau: Honourable senators, my question is for the Leader of the Government in the Senate.

Yesterday, our ambassador to Washington, Raymond Chrétien, all but endorsed United States presidential candidate Al Gore. He essentially listed all the positives of a Mr. Gore presidency and all the negatives associated with Mr. Bush.

I certainly do not want to be drawn into defending Mr. Bush nor to commenting on the merits of Ambassador Chrétien's

preferences for Mr. Gore, but is it appropriate for our Canadian spokesman in Washington to endorse a United States presidential candidate? Was Ambassador Chrétien announcing an official Canadian government position in the U.S. election?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I had an opportunity to read one of the articles covering that particular incident. As a result, I made some inquiries.

I am informed that the ambassador did not endorse any candidate for the presidency of the United States. He, in fact, had a discussion on both candidates, relating their connection to the country and the relationship that had developed or that existed between each candidate and Canada. Obviously, one of those candidates had a much closer connection than the other. Those comments may have been interpreted as endorsing that particular candidate, but such was not the intention of the ambassador and is certainly not the position of the government.

Senator Comeau: Honourable senators, the minister is saying that the ambassador was discussing the candidates. Let me read to you a few of his comments:

...a victory by Al Gore over George W. Bush...would be the best outcome for Canada.

We know Vice-President Gore. He knows us. He's a friend of Canada....

...[His election] probably would make life easier for us on broad environmental issues.

This is what the articles quotes the ambassador as saying about Mr. Bush:

Gov. Bush, on the other hand, doesn't know us as much.

He went on to joke about some episodes on *This Hour Has 22 Minutes*. He refers to Mr. Bush as thinking that the border has more to do with Mexico than Canada:

...A Bush presidency would probably emphasize broad defence-security issues. That might be a bit more difficult for us.

If that is not showing a preference, I suggest that the Leader of the Government in the Senate is in complete denial. Does he really think that Mr. Bush and his supporters will take kindly to the Canadian government interfering in their election?

Given the sensitivity of the issue, will the government consider recalling Ambassador Chrétien until after the election? In case Mr. Bush does become the President, we would then be in a much better position in Canada.

Senator Boudreau: Honourable senators, I have the article from which the honourable senator quoted and it is the same article that prompted my follow-up. Another quote from the article reads:

...Canada's ambassador...said yesterday that a victory by Al Gore over George W. Bush would be the best outcome for Canada.

Those are the reporter's words, characterizing the ambassador's comments. It was not a direct quote. Rather, Mr. Raymond Chrétien stated, and I am reading from the article:

"We know Vice-President Gore. He knows us. He's a friend of Canada."

Senator Comeau: I rest my case.

Senator Roberge: Shame!

Senator Boudreau: Is there anything that is not factual in that statement? All of that is factual.

Senator Stratton: What does that say? If that is not a preference, what is?

Senator Boudreau: The best assurance I can give to honourable senators is that I am informed that there was no intention on the part of the ambassador and certainly none on the part of the Government of Canada to endorse either presidential candidate.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a supplementary question for the minister.

Is it the minister's position that this article, under the byline of Mike Trickey of the *National Post*, is another example of the *National Post* being fictitious in its writing of the news?

Senator Boudreau: Honourable senators, the individual writing the article was Mike Trickey, T-R-I-C-K-E-Y.

Senator Forrestall: You employ him, do you?

Senator Boudreau: Mr. Trickey does attribute certain quotations to the ambassador. We can only assume he is quoting accurately. He says that Mr. Chrétien:

...described Mr. Bush as a "nice man"...

He again quotes Mr. Chrétien directly:

"We will deal with whoever gets elected."

These are the direct quotes. The rest, I suppose, is conclusion by Mr. Trickey in his article.

Senator Stratton: That is an endorsement to me!

Senator Boudreau: The ambassador was clearly stating fact.

Senator Stratton: He stated his preference.

Senator Boudreau: He stated history and he made no attempt to endorse one candidate over the other.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, we remember the ambassador's uncle when he told us that Mr. Chirac would not win the presidential election in France. There is a precedence to taking sides.

Senator Kinsella: It is genetic.

Senator Lynch-Staunton: Is it the role of an ambassador anywhere to publicly discuss and assess the qualities of a candidate for a high political office? Why did the ambassador not just keep his mouth shut?

Senator Kinsella: Hear, hear!

Senator Forrestall: Were there instructions, by any chance?

• (1420)

Senator Boudreau: I think that the information I have here, which is surrounded by quotes, is pretty innocuous.

Senator Lynch-Staunton: Then why did he not shut up?

Senator Boudreau: The conclusion that Mr. Trickey ascribes to the quotes is a little less than innocuous. I believe Mr. Trickey is the same reporter who reported on certain Conservative caucus meetings and perhaps did not do so as accurately as he might have.

In any event, I rely on the direct quotes, and I can see no endorsement.

Senator Stratton: It sounds like an endorsement to me.

Senator Kinsella: Honourable senators, I share with the Leader of the Government in the Senate the disdain for national newspapers writing fiction under the guise of news. I should like the minister give us the Government of Canada's position so that it is very clear to all.

It is reported in Mr. Trickey's article that Mr. Chrétien said that it would probably make life easier for us in Canada on broad environmental issues if Mr. Gore won the election. Is that not the policy of the Government of Canada?

Senator Boudreau: The policy of the Government of Canada is that we will express no preference for either presidential candidate. In the words ascribed to our envoy, "We will deal with whoever gets elected," and that is the position of the Government of Canada.

Senator Lynch-Staunton: What a choice! What a decision! That is real statesmanship.

Senator Forrestall: From whom would you rather buy a helicopter?

NATIONAL DEFENCE

REPLACEMENT OF LABRADOR HELICOPTERS—
SUCCESS OF PROCUREMENT PROCESS

Hon. J. Michael Forrestall: Honourable senators, I wish to ask the minister who leads the Senate for the government a question about procurement. It is about helicopters. Could the minister share with us his views, positive or otherwise, on the procurement of the Canada search helicopter to replace the Labrador search and rescue helicopter? I am talking not about the Sea King necessarily but specifically, in this case, about the search and rescue helicopter. Has this program been a success and an example of Liberal efficiency in procurement?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, not being the minister directly responsible, I am not familiar with the process on a day-to-day basis of the procurement for the replacement for the Labrador. I believe the honourable senator is referring to the Cormorant. The program is being well received by people with whom I have spoken. They look forward to operating that piece of equipment. However, I am not familiar with the details of the procurement on a day-to-day basis.

REPLACEMENT OF SEA KING HELICOPTERS

Hon. J. Michael Forrestall: Honourable senators, perhaps I could refresh the government leader's memory about the history of that project.

The Canada search helicopter project was announced in the fall of 1995. Requests for proposals went out in the fall of 1996. The evaluation of bids took place in May of 1997. The contract was awarded in January of 1998 and signed in April of 1998. It was almost three years later before the successful company even started to produce them for Canada.

The maritime helicopter program has not even been announced yet. It took almost three years from the announcement to the contract signing for 15 helicopters with very simple mission systems before the company could start to move on the contract. The minister says that the entire new fleet of maritime helicopters, with a number of very complex mission systems, will be in place — and I know the minister is familiar with the date — by the year 2005.

What steps will the government take, if any, to streamline this "fair and open competition to replace the Sea King" by the government's seemingly impossible target of 2005, or will there in fact be a directed contract?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the honourable senator asked me as recently as yesterday whether the department had any intention to issue a directed contract with respect to the Sea King helicopter replacement. I indicated at that time that I had no such

information but that I would make inquiries. I am in the process of making those inquiries, and I hope to have a response for the honourable senator possibly next week.

REPLACEMENT OF SEA KING HELICOPTERS—
OPERATIONAL REQUIREMENTS OF NEW AIRCRAFT

Hon. J. Michael Forrestall: Does part of that inquiry include whether there has been any significant change in the mission profile? In other words, has there been any change in the specifications for the replacement program that would allow an aircraft of lesser capability to become eligible for the open and fair competition process? I imagine the government would want to be open and fair, but if we are buying a lesser helicopter, it would have a distinct advantage because it probably would cost millions of dollars less and we would then opt for it, thus circumventing the end result. I am sure the minister would not want to see that happen, with the resulting horror aircraft for use by the Canadian military.

Hon. J. Bernard Boudreau (Leader of the Government): I agree that we do not wish to enter into a process that will not result in the procurement of equipment that is fully capable of performing military missions.

With respect to whether there have been any changes to the mission role or to the procurement details, I want to ask for further clarification. Perhaps that is a matter that I can discuss with the honourable senator. I want to ensure that I have his request properly framed.

Senator Forrestall: I should like very much to discuss that with the minister, but I would not want to discuss it in the context of being compromised. In other words, if he tells me something that I really want to know but cannot get him to say here publicly, I do not think I really want to know it.

Senator Boudreau: I think perhaps the honourable senator misunderstood me. It is not the answer that I want to discuss privately. I am prepared to give the answer here. It is the question that I want to discuss so that, between the two of us, we know what the question is exactly.

Senator Forrestall: I would be delighted to do so.

FUTURE OF CFB SHILO

Hon. Terry Stratton: Honourable senators, I wish to address the Leader of the Government in the Senate with respect to the future of the Canadian Forces base in Shilo. As the minister may or may not be aware, the German army left that base after using it for many years as a training facility. Could the minister inform this chamber — not now, but perhaps next week — as to the process for the determination of the future of that facility? I would very much like to know. I am sure other senators in this chamber would also like to know.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I do not have that information with me, as the honourable senator suspected, but I will make the inquiries and share that information with the Senate in due course.

• (1430)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 16, 2000, by Senator Andreychuk regarding the World Trade Organization negotiation on agricultural subsidies. I have a response to a question raised in the Senate on May 9, 2000, by Senator Spivak, regarding Ontario, effect of development projects on Oak Ridges Moraine. I have a response to a question raised in the Senate on May 9, 2000, by Senator Andreychuk regarding the government support for centres of victims of torture. I have a response to a question raised in the Senate on May 10, 2000, by Senator Kinsella regarding the ratification of the Inter-American Convention on Human Rights, Ontario, condemnation by human rights committee for the funding of religious schools.

INTERNATIONAL TRADE

WORLD TRADE ORGANIZATION—NEGOTIATIONS ON AGRICULTURAL SUBSIDIES—GOVERNMENT POLICY

(Response to question raised by Hon. A. Raynell Andreychuk on May 16, 2000)

Canada's objectives for multilateral trade negotiations were set out in the Government's response to the House of Commons' SCFAIT report on *Canada and the Future of the World Trade Organization* that was tabled on November 15, 1999. Although a broad based set of negotiations was expected to be launched at the WTO Ministerial Conference in Seattle in December, WTO Members were unable to reach agreement on a negotiating agenda. The mandated negotiations on agriculture and services, however, are proceeding this year.

We need to bridge the differences and develop a broad-based negotiating agenda acceptable to all the WTO Members. We also need to satisfy the desire of many developing countries to obtain greater benefit from current agreements and future negotiations. I am actively trying to address these challenges. In the last few months, I have met with my counterparts for the United States, the European Communities, France, Germany, the United Kingdom and Hong Kong – China and I am in regular contact with other key persons. In June, I will attend the APEC Trade Ministers Meeting in Darwin, Australia and the Canada-EU Summit — both opportunities to try to move forward towards an agreement. Also, Parliamentarians from all parties who travel overseas are provided briefs on the

issues so they can engage effectively their counterparts. These efforts are complemented by the efforts of Canadian officials at the WTO in Geneva, and in the capitals of our trade partners.

With respect to the request for more specific information about the mandated agriculture negotiations, on August 19, 1999, Minister Vanclief and Minister Pettigrew announced Canada's initial negotiating position for the negotiations mandated by WTO Agreement on Agriculture. The key elements of the position call for the complete elimination of export subsidies, maximum reductions in production- and trade-distorting domestic support, including an overall limit on domestic support of all types, and real and substantial market access improvements for all agriculture and food products. Canada will also defend our ability to continue orderly marketing systems. The initial negotiating position was developed following an extensive consultation process involving industry, the provinces and Parliamentarians. The position is posted on Agriculture and Agri-Food Canada's Web site.

On the current status of the negotiations, the negotiations will take place in special sessions of the WTO Committee on Agriculture. A first negotiating meeting of the Committee was held in March, and officials reached agreement on a work program for the coming year. The Chairman for the negotiations will be Ambassador Jorge Voto-Bernales of Peru. This year, WTO Members will submit and discuss negotiating proposals that explain what they want to achieve in the negotiations and how they propose to achieve those objectives, at meetings in June, September and November. With all initial negotiating proposals to be tabled by the end of December, a further meeting may be held in January 2001, prior to a stock-taking in March 2001, completing the first phase of the negotiations.

Therefore, as part of that process, WTO Members will soon be tabling negotiating proposals for further discussion. Working in close collaboration with the provinces and the Agriculture, Food and Beverage Sector Advisory Group on International Trade (SAGIT), Canadian officials will work over the coming months to develop negotiating proposals reflecting the initial position announced last August. It is important for Canada to bring its proposals to the table early, so that we can influence the direction of the negotiations as much as possible. Canada is also working with its colleagues in the Cairns Group of agricultural exporters to develop negotiating proposals reflecting our shared views.

As other countries also present negotiating proposals, Canada will respond to them. Canada will continue to consult closely with stakeholders and the provinces as events unfold in the negotiations.

Since the Seattle Ministerial meeting did not result in the launch of a set of broad based negotiations, progress in the agriculture negotiations after the March 2001 stocktaking exercise is expected to be slow. The steps and pace beyond the March 2001 stocktaking will be shaped by the degree to which there has been progress towards the launch of a broader set of negotiations.

In the Cairns Group, Canada is also actively pursuing our interests. In Banff, in October, we will host the annual meeting of Cairns Group Ministers. Cairns Group Ministers will meet to consider the progress in the negotiations, and guide the Group's joint efforts for the balance of the first phase in the negotiations to March 2001. The Cairns Group was an effective force for ensuring that an ambitious result for agriculture was realized in the Uruguay Round, and we will work to ensure that the Group continues its leadership role, effectively influencing the direction of the negotiations.

Given its role as a major agricultural exporter and importer, Canada has a fundamental interest in further strengthening the international rules governing agricultural trade, eliminating trade distorting subsidies, and significantly improving market access opportunities. Canada has a strong and credible initial negotiating position that has the support of agri-food industry stakeholders and the provinces. The agriculture negotiations are a high priority for Canada, Canadians and the Government, and we are moving pro-actively to pursue Canada's interests in these negotiations, continuing the close consultative processes we used to establish the initial negotiating position.

ENVIRONMENT

ONTARIO—EFFECT OF DEVELOPMENT PROJECT ON OAK RIDGES MORaine

(Response to question raised by Hon. Mira Spivak on May 9, 2000)

In 1998 and early 1999, an environmental screening was being undertaken for the Red Hill Creek Expressway project (the Project) by Fisheries and Oceans Canada, the lead responsible authority for the Project. At the time, the screening determined that the Red Hill Creek valley is very important habitat for migratory birds and that the Project would cause significant adverse effects to migratory bird habitat which could not be mitigated, and may cause significant adverse effects to birds relying on this habitat. In light of this information, the Minister of Fisheries and Oceans, made a request in accordance with section 25 of the *Canadian Environmental Assessment Act* (the Act) for referral of the Project to a review panel.

[Senator Hays]

Section 25 of the Act stipulates that a responsible federal authority may request referral of a project to a review panel when a project may cause significant adverse environmental effects or public concerns warrant a reference to a review panel. On May 6, 1999, following consideration of the request by the Minister of Fisheries and Oceans, the Minister of the Environment referred the Red Hill Creek Expressway project to a federal review panel.

With respect to the Oak Ridges Moraine, the federal government is not aware of any proposed projects that may trigger the *Canadian Environmental Assessment Act*. For example, if a proposed development were to involve federal lands, then the Act would be triggered. Another trigger would be the requirement for a permit or licence, in accordance with the provisions of the Law List Regulation. For instance, if an authorization under subsection 35(2) of the *Fisheries Act* is required for the harmful alteration, disruption or destruction of fish habitat, then the Act would be triggered.

In the event that these proposed developments trigger the Act, the designated responsible authority would be responsible for conducting an environmental assessment, in accordance with the requirements of the Act.

UNITED NATIONS

GOVERNMENT SUPPORT FOR CENTRE FOR VICTIMS OF TORTURE

(Response to question raised by Hon. A. Raynell Andreychuk on May 9, 2000)

For fiscal year 1999/2000, the government has already increased its annual contribution to the United Nations Voluntary Fund for the Victims of Torture from \$30,000 to \$60,000. The rehabilitation of victims of torture is an important component of post-conflict reconciliation of war-torn societies and increased support to this fund thus supports Canada's peace building and human security foreign policy goals.

Canada is undertaking a number of measures to help the people of Sierra Leone and the United Nations in its efforts to restore peace in that country.

Canada, through the Canadian International Development Agency, will provide the \$5 million in emergency humanitarian aid to help victims of the conflict in Sierra Leone. The aid will be targeted to the most vulnerable areas and people in need. It may include emergency food aid, shelter for families that have fled their homes, and emergency health supplies.

To help bolster the planning capacity of the UN for rapid response, Canada will provide two Canadian Forces officers trained in military operations to the UN Department of Peacekeeping Operations. In addition, the Department of Foreign Affairs and International Trade will fund two officers from developing countries.

Canada will donate 1700 fragmentation vests and 1700 helmets to the UN for use by peacekeepers of the UN mission in Sierra Leone (UNAMSIL). These items could protect two infantry battalions deployed by the UN. This donation follows a request by the UN to provide these items to troops who had been deployed previously to Sierra Leone without protective equipment. The total value of the donation is approximately \$864 000.

The Canadian Forces currently have a senior officer on the staff of the Force Commander for the UN Mission in Sierra Leone. As well, a Canadian Forces aircraft will airlift additional troops from India and Bangladesh into that country over the next few weeks.

To date, the following projects have been funded by the Peace Building Fund of the Department of Foreign Affairs and International Trade of Canada:

Support for the Establishment of a Truth and Reconciliation Commission (\$65,000)

This initiative involves support for technical advisory services provided by the Office of the High Commissioner for Human Rights to assist Sierra Leone in preparing for the creation of a Truth and Reconciliation Commission.

Media and Peace building in Sierra Leone (\$100,000)

Responding to the need to communicate the provisions of the peace agreement more widely the Program supported the launching of an NGO training and capacity building project to involve Sierra Leoneans in the development and dissemination of radio programming aimed at reducing conflict and promoting reconciliation in Sierra Leone.

Support for the United Nations Mission in Sierra Leone (UNAMSIL) Human Rights Initiatives (\$180,000)

This support is being directed towards human rights training for the Sierra Leone police force, training for human rights field monitors, and the gathering of information on conflict-related rape and sexual violence for submission to the Truth and Reconciliation Commission. This information will contribute to ensuring

that the appropriate medical, psychological, social and legal services are provided for victims of these abuses.

Support for Partnership Africa-Canada Study on Sierra Leone Diamond Trade (\$31,740)

In its report entitled, "The Heart of the Matter", Partnership Africa-Canada examined the impact of the diamond trade on the conflict in Sierra Leone, and explored ways in which Sierra Leone's diamonds might become an asset for peace and development.

"Train the Trainers" Initiative for West African Military Staff (\$52,000)

Through Save the Children Sweden, this initiative is providing training for West-African military officers in child rights and child protection issues and approaches.

The Canadian International Development Agency has funded the following projects in Sierra Leone:

Canada Fund for Local Initiatives (\$500,000)

The Canada Fund for Local Initiatives, administered by the Canadian Embassy in Conakry, will benefit from a total and increased allocation of \$500,000 for fiscal year 2000-2001, the largest for an African country. This high impact and quick disbursement program will be used for a variety of small projects from the promotion of human rights and the development of a democratic culture to agricultural projects, shelter, health projects, etc.

Sierra Leoneans refugees in Guinea and Liberia (\$950,000)

The UN High Commission for Refugees (UNCHR) will use this amount towards humanitarian needs targeted at Sierra Leoneans currently in living in refugee camps in Guinea and Liberia.

Internally Displaced People (IDPs) (\$500,000)

This contribution is meant to support the International Committee of the Red Cross in addressing the humanitarian needs of internally displaced people.

Maternity Hospital project in Freetown (\$500,000)

The Canadian Red Cross will assist the Princess Christian maternity Hospital in Freetown in providing quality pre-natal and post-natal care to targeted destitute women.

Education for children (\$500,000)

This will support efforts by UNICEF to enable some 300,000 children to commence or recommence schooling in their communities.

Canada is focussing its efforts to resolve the current conflict situation and has announced a number of measures designed to help the people of Sierra Leone and the United Nations in its efforts to restore peace in that country as quickly as possible. As soon as the conditions are more propitious, a large portion of Canadian assistance will be specifically targeted assist the most vulnerable areas and people in need who are victims of the conflict. Many of these, of course, are children. This includes as previously announced:

\$5.0M in emergency humanitarian assistance, which may include emergency food aid, shelter for families that have fled their homes, and emergency health supplies for children and families that have been caught in the middle of the conflict.

Once the current conflict situation in Sierra Leone is resolved, Canada intends to support the establishment of a National Commission on Children for Sierra Leone which will be a broad-based, multi-sectoral entity with the mandate of coordinating efforts on behalf of children in Sierra Leone, establishing priorities and making programmatic recommendations.

In addition, Canada has announced that it would support the UN Mission in Sierra Leone's human rights activities and initiatives in the amount of \$180,000. This will include human rights training for the Sierra Leone police force, training for human rights field monitors and the gathering of information on conflict-related rape and sexual violence for submission to the Truth and Reconciliation Commission. The assistance will also help ensure the provision of appropriate medical, psychological, social and legal services for victims of these abuses, many of whom are children.

ORGANIZATION OF AMERICAN STATES UNITED NATIONS

RATIFICATION OF INTER-AMERICAN CONVENTION ON HUMAN RIGHTS—ONTARIO—CONDEMNATION BY HUMAN RIGHTS COMMITTEE FOR FUNDING RELIGIOUS SCHOOLS

(Response to questions raised by Hon. Noël A. Kinsella on May 10, 2000)

Question:

American Convention on Human Rights

Could the Leader of the Government in the Senate make inquiries to determine what progress was made at last weekend's meeting of the committee of officials responsible for human rights legislation in Canada that is examining —

[Senator Hays]

and has been examining since 1990 — whether Canada should ratify that convention?

Answer:

On May 4, Department of Foreign Affairs officials met with the Continuing Committee of Officials of Human Rights to discuss Canadian adherence to the American Convention on Human Rights. The Committee members were advised that the Minister of Foreign Affairs is actively examining how Canada could adhere to the Convention. The Committee members agreed to ask their governments if there is willingness to reopen examination of the American Convention on Human Rights with a view to possible adherence. There are open lines of communication between the Committee members and the Department of Foreign Affairs.

Question:

Waldman case

Have there been consultations between the Government of Canada, which represents us internationally, and the Government of Ontario, which does not seem to be taking this condemnation of a human rights violation by Canada at the level of seriousness necessary to overcome the issue, as all would desire?

Answer:

The Minister of Foreign Affairs, by letter dated February 1, 2000, (sent by facsimile) encouraged the Government of Ontario to continue to give consideration to the views of the United Nations Human Rights Committee and expressed the federal government's intention to work cooperatively with the Government of Ontario in the preparation of a response to the Committee.

By return letter dated February 1, the Ontario Minister of Education, Janet Ecker, advised that the position of Ontario remains that Ontario has no plans to extend funding to private religious schools or to parents of children that attend such schools, and intends to adhere to its constitutional obligation to fund Roman Catholic schools. The province reaffirmed its commitment to providing an excellent public education system that is open to all students regardless of religious or cultural background. The Minister stated, "The Ontario position that I have set out for you is clear and final".

As a result the Canadian Government, in its response to the Committee, explained the exclusive jurisdiction of the provinces in matters of education and conveyed the position of Ontario as communicated in the Minister of Education's February 1 letter.

The federal government has been unable to hold consultations as the Government of Ontario has been unwilling to enter into a consultation process.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to introduce to you a distinguished visitor in the Speaker's gallery to our left. It is Mr. Kevin O'Brien, the Speaker of the Nunavut legislature. He is here as a guest of Senator Willie Adams.

Mr. Speaker O'Brien, on behalf of all the senators, I bid you welcome here in the Senate, and we wish you success in your new job as the Speaker of the Nunavut legislature.

ORDERS OF THE DAY

HERITAGE LIGHTHOUSES PROTECTION BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Forrestall, seconded by the Honourable Senator DeWare, for the second reading of Bill S-21, to protect heritage lighthouses.—(*Honourable Senator Hays*).

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, this order stands in my name, not because I, as someone on the other side observed, representing the Province of Alberta, have a consuming interest in heritage lighthouses. This order stands in my name because I was not in a position to say to which committee this bill should be referred. I have now had an opportunity to have discussions with colleagues, and, if the Honourable Senator Forrestall wishes to move this bill to committee, I would support it going to the Fisheries Committee.

The Hon. the Speaker: Honourable senators, I must inform the Senate that if the Honourable Senator Forrestall speaks now his speech will have the effect of closing debate on second reading.

Does any other honourable senator wish to speak?

Hon. J. Michael Forrestall: Honourable senators, I wish to express my appreciation to the Deputy Leader of the Government for taking the question.

I have had brief conversations with Senator Perrault, and a number of other senators, and I have made some further inquiries with respect to this initiative. It is a proposal that will be well

received by the heritage community in Canada and, in particular, the communities on all our coasts that are involved in the question.

Honourable senators, I would take great delight in having the bill referred to the Standing Senate Committee on Fisheries.

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Forrestall, seconded by the Honourable Senator DeWare, that this bill be read a second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Forrestall, bill referred to the Standing Senate Committee on Fisheries.

COMPETITION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Sheila Finestone moved the second reading of Bill C-276, to amend the Competition Act, 1998 (negative option marketing).

She said: Honourable senators, I am pleased to sponsor this important consumer protection bill, Bill C-276. At the heart of this legislation is one simple rule: If you do not order something, if you do not want something, then you should not need to pay for it.

That seems simple to me. Bill C-276 would amend the Competition Act to make charging money for the provision or sale of a new service without the express consent of the client simply illegal. Under the Competition Act, this activity would be considered reviewable conduct for banks, broadcasting and telecommunication undertakings.

Under the Competition Act, an enterprise such as a bank — for they are no exception under this rule — would be guilty of reviewable conduct if it does not provide detailed notice to the client at least once a month for the consecutive three months, and receive express consent from the client for the purchase of a service. There are a number of ways in which one could express informed consent.

As well, there are exceptions in this bill. Exceptions are provided where the new service is effectively an upgrade at no cost or lower cost — I should like to see the lower cost sometime — to the client subscribers, or where there is no separate or specific charge for the new service.

With respect to broadcasting, the issue of French-language channels is covered in clause 4 of this bill, which enables the Governor in Council, on the advice of the Minister of Canadian Heritage, after having consulted the CRTC, to make regulations and exempt a service from the application of this bill for cultural and linguistic reasons. Furthermore, clause 4 makes it clear that this bill does not and will not interfere with the objectives set out in section 3(1) of the Broadcasting Act, which states:

English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements.

I can inform honourable senators that along with the Minister of Heritage, the Minister of Industry, who is responsible for the Competition Act, supports this bill, and they are not alone. Bill C-276 has received support from the Consumers Association of Canada, the Public Interest Advocacy Centre, the Insurance Brokers Association of Canada, the Deputy Commissioner of the Competition Bureau, Democracy Watch and Action Réseau Consommateur.

This bill passed third reading in the other place by a wide margin of four to one. Bill C-276 protects the basic consumer's right to choice. We are trying to ensure informed consent, since that is what Canadians tell us they want. Informed consent can be expressed in many ways: writing, phoning, e-mail, fax, for we are into an era of electronic commerce. Bill C-6 has ensured this.

Negative option marketing denies the right to choice by forcing consumers to decline or "opt out" of new products or service offerings. This reversal of the traditional buyer-seller relationship relies on implied consent. If you do not register your objection with the seller, then you are deemed to have given your consent to the purchase. It is a deceptive yet highly profitable marketing practice. Negative option billing takes advantage of consumers from all walks of life: the young, the elderly, people on fixed incomes, those with difficulty reading enclosures — too many enclosures which do not indicate on a big front label "read me and sign on the dotted line."

I should like to remind honourable senators that in our hearing with the Privacy Commissioner the other day, Senator Fairbairn raised the question of the vulnerability of over 40 per cent of adult Canadians who have varying degrees of difficulty in everyday tasks that we take for granted — Canadians who do not enjoy the basic skills of writing, reading and numeracy. That percentage of the population is particularly high in the over 65-year-olds. They are at an even greater disadvantage and risk.

In 1996, the federal Office of Consumer Affairs released a study on negative option marketing that contained the following warning:

[Senator Finestone]

• (1440)

Negative option marketing has the potential to be an important marketing tool in the financial services sector. Examples include the sending of unsolicited credit cards and changes in account structure made without consumers' consent. The industry is seeking new sources of revenue, offering new services and changing old ones. Ever increasingly powerful computers make it easier and cheaper than in the past for the industry to effect these changes....new technologies could allow industry to profit by slipping new charges and services past unsuspecting customers.

Do honourable senators think this is fair? I do not and neither did the members of the other place.

The Consumers' Association of Canada has testified about one bank's use of negative option marketing. I am referring to the National Bank of Canada, which offered out-of-country medical insurance to existing clients. The offer was presented in a brochure as a free trial offer. At the end of the so-called free-trial period, many customers were shocked to discover that their accounts had been debited \$9.95. In effect, they had purchased insurance by saying nothing. How many of their clients noticed, objected or even needed this out-of-country medical insurance and how much revenue did this bring in?

Some banks are as guilty of negative option marketing as other sectors covered in this bill. Consider GICs, and many of us carry them. They are automatically rolled over unless you tell the bank otherwise.

In October of 1997, by way of example, the Toronto Dominion Bank employed a negative option scheme to deprive bank customers of their privacy. The federal Privacy Commissioner made mention of this in his 1997-98 annual report to Parliament. He stated:

The Toronto Dominion Bank's new privacy brochure also moved many to call, objecting to the bank's requirement that customers opt out of its plans to share information with subsidiaries. Customers had until October 1997 to indicate their preference. No news meant the information would be shared.

On something as basic as protecting a customer's privacy, the bank's definition of consent includes someone not responding to their junk mail. They sent out a little flyer, one of those multi-paged ones, in bank statements and with Visa bills. On page six, if you got that far in the reading, customers were advised that they had to contact the bank if they did not want their personal information shared with others.

This example clearly illustrates the implications for consumers if we allow the banks to get off the hook when it comes to negative option marketing. From banks, we expect and should get the highest of moral behaviour.

Another industry example brought to my attention involves university students. In this city, when students at Carleton University or the University of Ottawa move into town, one of the first things they do is order a telephone. They arrange the installation or hook-up and at that time, they are informed that they will also receive call-waiting and other online features free for a trial period. They are never re-called to verify if they were satisfied. They are never re-called and asked if they want the service. After a few months, some of these students realize that additional charges had appeared on their phone bills. They were sold these additional services through negative option marketing.

With convergence in the telecom sector, the temptation to use this deceptive marketing technique will only increase. The cable companies, another sector covered, are notorious for slipping additional services past unsuspecting customers. Witness the negative option billing fiasco of January 1995. Many of us will remember the image of angry consumers lining up to cancel their cable service. We remember the phone calls that we received in this place and in the other place and letters from the public demanding that government act on this issue.

Some would argue that the cable companies have learned their lesson. Still others suggest that the issue is best left to the provinces and their patchwork of consumer protection laws. Perhaps we should refer to what the experts have had to say, both about jurisdictions and consumers.

As a matter of fact, I came across an interesting article just last month about the cable industries, which I will come back to if I have time.

At a Commons committee hearing with respect to experts, the head of the Quebec-based consumer group Action Réseau Consommateur was questioned by the Bloc Member from Témiscamingue, who asked:

You are a watchdog organization involved in consumer protection in Quebec. At the present time, do companies under federal jurisdiction and subject to this bill comply voluntarily with the Consumer Protection Act?

The witness replied:

They do not comply with the Consumer Protection Act.

In a letter to the CRTC, dated October 8, 1999, the director general of Action Réseau Consommateur, Madam Nathalie St-Pierre, exploded the myth that Quebec consumers do not object to negative option marketing. She referred to the 1997 launch of new specialty channels by Vidéotron:

When the channels were launched, Québec consumer groups, the Consumer Protection Bureau and Vidéotron all

received numerous complaints, particularly about the marketing method used, which was negative option billing.

That is what she had to say. Quebec consumer protection law does restrict negative option marketing but only in areas of Quebec jurisdiction.

Obviously, the Bloc Member for Témiscamingue agrees. Why else would he have asked a Quebec-based consumer group if federally regulated companies voluntarily comply with the provincial law, only to find out that they do not.

The fact is that the Bloc must realize that the provincial law does not and cannot apply to industries like banking, telephone and cable. The only way to protect consumers in these industries is to do so at the federal level. Consumers want it and have wanted it. That is why there are the complaints.

What have other experts said about Bill C-276 and negative option billing? In testimony before the Commons Industry Committee, Joanne D'Auray, Deputy Commissioner of the Competition Bureau of Canada stated:

The Bureau feels that negative option marketing cannot be seen as a competitive technique that would be good for consumers. The Bureau believes that consumers should have the opportunity to make an informed choice when buying new services. We have never had and we do not yet have any objection to (Bill C-276), which would apply to banks, the cable industry and broadcasting.

Honourable senators, Bill C-276 is not just about consumer's right to choice. It is also about ensuring that there continues to be choice in the marketplace. After all, negative option marketing uses inertia to build on an existing client base. It is so simple to just add new services to those of existing customers and wait to see who objects. In the meantime, the businessmen line their pockets.

It is simple, profitable and efficient, but that does not make it right. In fact, one can argue that negative option marketing is anti-competitive. It can lead to further concentration in the marketplace. In the banking, cable and telephone industries, further concentration is not something to be encouraged.

Konrad Von Finckenstein, Commissioner of the Competition Bureau of Canada, gave the following testimony to the Commons committee that studied this bill. He said:

I don't see how negative options can ever be pro-competitive. The basic underlying concept of a competitive market is that consumers have a choice and they exercise that choice, and they exercise it knowingly. If you have a negative option, you don't even know this has happened. You never did get that choice...

Honourable senators, Bill C-276 has its roots in the consumer cable revolt of January 1995, but it has an eye clearly on the future. On a daily basis, Canadian consumers are bombarded with the marketing efforts of federally regulated companies like banks and cable companies. With the explosion of the information technology, it has become far easier for these companies to bundle, package and increase the number of services provided to existing customers. I grant that some may be fair. Advertising is one thing, but slipping it through until caught is another. Why must we as consumers remain ever vigilant to avoid paying higher fees for new additional services that we may not even want or may not even be able to use?

The Commons committee charged with studying this bill made a number of improvements. The Industry Committee brought this bill in line with recent changes to the Competition Act, precipitated by the passage of Bill C-20.

• (1450)

Concerns over the viability of certain specialty television channels, in particular French language services, were resolved. A change was made to deal with the evolution of electronic commerce. Changes were made, but the key elements of consumer protection have remained intact. The bill still applies to federally regulated bank, cable and telephone industries.

Honourable senators, this bill would amend the Competition Act. It does not propose an outright ban on negative option marketing, but it allows for exceptions. In fact, there may be situations in which a consumer could benefit from such an arrangement. However, for this to be the case, consumers must be able to make informed decisions. That is why this bill proposes that certain steps be taken for a negative option scheme to be acceptable. These steps include disclosure, three months' notice and, most important, the express consent of the customer or the consumer.

Contrary to what some would suggest, this bill does not impair a bank's ability to make service changes for existing clients. It would not prevent an increase in bank service fees. It would not lock customers into the same service package forever. It would, however, prevent a bank from adding a new service to your package and then increasing the fee without your express

consent. The same holds true for the cable companies, who misused this whole process in January. I refer to both Rogers and Cogeco.

Express consent can be given in many forms. For example, it can be a signature on e-mail or on mail-in postcards. It could be verbal consent. It could be the push of a button at the automated bank machine or your home commuter. The bill is flexible on this point.

The last remaining critic of this bill, the banking industry, has argued that Canadian banks have too many customers to keep in touch with on a regular basis, which means they have many customers for hidden services. They say it is not practical for a bank to keep in touch with 6 million or 7 million clients. In total, the big banks have more than 20 million customers, we are told. Yet, at the same time, we are told this bill need not apply to banks because, apparently, there is plenty of competition in Canada's banking sector. It does not sound like plenty of competition to me. With only six banks for 20 million customers, how much competition actually exists? Moreover, how much competition will exist if big banks are allowed to merge in the not-so-distant future?

I urge my honourable colleagues here in the Senate to consider these points and to keep consumers in mind as we hopefully send this bill to committee before the summer recess.

On motion of Senator DeWare, for Senator Eyton, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h) moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 6, 2000, at 2 p.m.

The Senate adjourned until Tuesday, June 6, 2000, at 2 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

THE HONOURABLE GILDAS L. MOLGAT

THE LEADER OF THE GOVERNMENT

THE HONOURABLE J. BERNARD BOUDREAU, P. C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE JOHN LYNCH-STANTON

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

GARY O'BRIEN

LAW CLERK AND PARLIAMENTARY COUNSEL

MARK AUDCENT

USHER OF THE BLACK ROD

MARY McLAREN

THE MINISTRY

According to Precedence

(June 1, 2000)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. Lloyd Axworthy	Minister of Foreign Affairs
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Minister of Industry
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Martin Cauchon	Minister of National Revenue and Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. J. Bernard Boudreau	Leader of the Government in the Senate
The Hon. Lyle Vanclief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Fisheries and Oceans
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. George Baker	Minister of Veterans Affairs and Secretary of State (Atlantic Canada Opportunities Agency)
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Maria Minna	Minister for International Cooperation
The Hon. Elinor Caplan	Minister for Citizenship and Immigration
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Raymond Chan	Secretary of State (Asia-Pacific)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Ronald J. Duhamel	Secretary of State (Western Economic Diversification) and Francophonie
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Gilbert Normand	Secretary of State (Science, Research and Development)
The Hon. Denis Coderre	Secretary of State (Amateur Sport)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(June 1, 2000)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg, Man.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver, B.C.
Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ontario	Ottawa, Ont.
William McDonough Kelly	Port Severn	Mississauga, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuaq, Que.
Daniel Phillip Hays	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Jean-Maurice Simard	Edmundston	Edmundston, N.B.
Michel Cogger	Lauzon	Knowlton, Que.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Golfe	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	New Brunswick	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
Mabel Margaret DeWare	New Brunswick	Moncton, N.B.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
Normand Grimard	Quebec	Noranda, Que.
Thérèse Lavoie-Roux	Quebec	Montreal, Que.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis Johnson	Winnipeg-Interlake	Winnipeg, Man.
Eric Arthur Bernston	Saskatchewan	Saskatoon, Sask.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.

ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Fernand Roberge	Saurel	Ville Saint-Laurent, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
Erminie Joy Cohen	New Brunswick	Saint John, N.B.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	New Brunswick	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Newfoundland	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Ville Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Bon Accord, Alta.
Léonce Mercier	Mille Isles	Saint-Élie d'Orford, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Calvin Woodrow Ruck	Dartmouth	Dartmouth, N.S.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Sheila Finestone, P.C.	Montarville	Montreal, Que.
Ione Christensen	Yukon	Whitehorse, Yukon Territory
George Furey	Newfoundland	St. John's, Nfld.
Melvin Perry Poirier	Prince Edward Island	St. Louis, P.E.I.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
J. Bernard Boudreau, P.C.	Nova Scotia	Halifax, N.S.
Tommy Banks	Alberta	Edmonton, Alta.
John Wiebe	Saskatchewan	Saskatchewan

SENATORS OF CANADA

ALPHABETICAL LIST

(June 1, 2000)

Senator	Designation	Post Office Address
THE HONOURABLE		
Adams, Willie	Nunavut	Rankin Inlet, Nunavut
Andreychuk, A. Raynell	Regina	Regina, Sask.
Angus, W. David	Alma	Montreal, Que.
Atkins, Norman K.	Markham	Toronto, Ont.
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.
Bacon, Lise	De la Durantaye	Laval, Que.
Banks, Tommy	Alberta	Edmonton, Alta.
Beaudoin, Gérard-A.	Rigaud	Hull, Que.
Berntson, Eric Arthur	Saskatchewan	Saskatoon, Sask.
Bolduc, Roch	Golfe	Sainte-Foy, Que.
Boudreau, J. Bernard, P.C.	Nova Scotia	Halifax, N.S.
Bryden, John G.	New Brunswick	Bayfield, N.B.
Buchanan, John, P.C.	Nova Scotia	Halifax, N.S.
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.
Carstairs, Sharon	Manitoba	Victoria Beach, Man.
Chalifoux, Thelma J.	Alberta	Morinville, Alta.
Christensen, Ione	Yukon Territory	Whitehorse, Yukon Territory
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.
Cogger, Michel	Lauzon	Knowlton, Que.
Cohen, Erminie Joy	New Brunswick	Saint John, N.B.
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.
Cook, Joan	Newfoundland	St. John's, Nfld.
Cools, Anne C.	Toronto-York	Toronto, Ont.
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.
DeWare, Mabel Margaret	New Brunswick	Moncton, N.B.
Di Nino, Consiglio	Ontario	Downsview, Ont.
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.
Eyton, J. Trevor	Ontario	Caledon, Ont.
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.
Finestone, Sheila, P.C.	Montarville	Montreal, Que.
Finnerty, Isobel	Ontario	Burlington, Ont.
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.
Forrestall, J. Michael	Dartmouth and Eastern Shore	Dartmouth, N.S.
Fraser, Joan Thorne	De Lorimier	Montreal, Que.
Furey, George	Newfoundland	St. John's, Nfld.
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Grafstein, Jeremiah S.	Metro Toronto	Toronto, Ont.
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.
Grimard, Normand	Quebec	Noranda, Que.
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.
Hays, Daniel Phillip	Calgary	Calgary, Alta.
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.
Johnson, Janis	Winnipeg-Interlake	Winnipeg, Man.
Joyal, Serge, P.C.	Kennebec	Montreal, Que.
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.
Kelly, William McDonough	Port Severn	Mississauga, Ont.
Kenny, Colin	Rideau	Ottawa, Ont.
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.
Kinsella, Noël A.	New Brunswick	Fredericton, N.B.

Senator	Designation	Post Office Address
THE HONOURABLE		
Kirby, Michael	South Shore	Halifax, N.S.
Kolber, E. Leo	Victoria	Westmount, Que.
Kroft, Richard H.	Manitoba	Winnipeg, Man.
Lavoie-Roux, Thérèse	Quebec	Montreal, Que.
Lawson, Edward M.	Vancouver	Vancouver, B.C.
LeBreton, Marjory	Ontario	Manotick, Ont.
Losier-Cool, Rose-Marie	New Brunswick	Bathurst, N.B.
Lynch-Staunton, John	Grandville	Georgetown, Que.
Maheu, Shirley	Rougemont	Ville Saint-Laurent, Que.
Mahovlich, Francis William	Toronto	Toronto, Ont.
Meighen, Michael Arthur	St. Marys	Toronto, Ont.
Mercier, Léonce	Mille Isles	Saint-Élie d'Orford, Que.
Milne, Lorna	Peel County	Brampton, Ont.
Molgat, Gildas L. Speaker	Ste-Rose	Winnipeg, Man.
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.
Nolin, Pierre Claude	De Salaberry	Quebec, Que.
Oliver, Donald H.	Nova Scotia	Halifax, N.S.
Pearson, Landon	Ontario	Ottawa, Ontario
Pépin, Lucie	Shawinigan	Montreal, Que.
Perrault, Raymond J., P.C.	North Shore-Burnaby	North Vancouver, B.C.
Perry Poirier, Melvin	Prince Edward Island	St. Louis, P.E.I.
Pitfield, Peter Michael, P.C.	Ontario	Ottawa, Ont.
Poulin, Marie-P.	Northern Ontario	Ottawa, Ont.
Poy, Vivienne	Toronto	Toronto, Ont.
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.
Rivest, Jean-Claude	Stadacona	Quebec, Que.
Roberge, Fernand	Saurel	Ville Saint-Laurent, Que.
Robertson, Brenda Mary	Riverview	Shediac, N.B.
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Robichaud, Louis-J., P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Roche, Douglas James	Edmonton	Edmonton, Alta.
Rompkey, William H., P.C.	Newfoundland	North West River, Labrador
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.
Ruck, Calvin Woodrow	Dartmouth	Dartmouth, N.S.
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Sibbeston, Nick	Northwest Territories	Fort Simpson, N.W.T.
Simard, Jean-Maurice	Edmundston	Edmundston, N.B.
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.
Spivak, Mira	Manitoba	Winnipeg, Man.
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.
Stratton, Terrance R.	Red River	St. Norbert, Man.
Taylor, Nicholas William	Sturgeon	Bon Accord, Alta.
Tkachuk, David	Saskatchewan	Saskatoon, Sask.
Watt, Charlie	Inkerman	Kuuujuaq, Que.
Wiebe, John	Saskatchewan	Saskatchewan
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(June 1, 2000)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ontario	Ottawa
4 William McDonough Kelly	Port Severn	Missassauga
5 Jeremiah S. Grafstein	Metro Toronto	Toronto
6 Anne C. Cools	Toronto-York	Toronto
7 Colin Kenny	Rideau	Ottawa
8 Norman K. Atkins	Markham	Toronto
9 Consiglio Di Nino	Ontario	Downsview
10 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
11 John Trevor Eyton	Ontario	Caledon
12 Wilbert Joseph Keon	Ottawa	Ottawa
13 Michael Arthur Meighen	St. Marys	Toronto
14 Marjory LeBreton	Ontario	Manotick
15 Landon Pearson	Ontario	Ottawa
16 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
17 Lorna Milne	Peel County	Brampton
18 Marie-P. Poulin	Northern Ontario	Ottawa
19 The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
20 Francis William Mahovlich	Toronto	Toronto
21 Vivienne Poy	Toronto	Toronto
22 Isobel Finnerty	Ontario	Burlington
23		
24		

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber	Victoria	Westmount
2 Charlie Watt	Inkerman	Kuujuuaq
3 Pierre De Bané, P.C.	De la Vallière	Montreal
4 Michel Cogger	Lauzon	Knowlton
5 Roch Bolduc	Golfe	Sainte-Foy
6 Gérard-A. Beaudoin	Rigaud	Hull
7 John Lynch-Staunton	Grandville	Georgeville
8 Jean-Claude Rivest	Stadacona	Quebec
9 Marcel Prud'homme, P.C.	La Salle	Montreal
10 Fernand Roberge	Sauvel	Ville de Saint-Laurent
11 W. David Angus	Alma	Montreal
12 Pierre Claude Nolin	De Salaberry	Quebec
13 Lise Bacon	De la Durantaye	Laval
14 Céline Hervieux-Payette, P.C.	Bedford	Montreal
15 Shirley Maheu	Rougemont	Ville de Saint-Laurent
16 Léonce Mercier	Mille Isles	Saint-Élie d'Orford
17 Lucie Pépin	Shawinigan	Montreal
18 Marisa Ferretti Barth	Repentigny	Pierrefonds
19 Serge Joyal, P.C.	Kennebec	Montreal
20 Joan Thorne Fraser	De Lorimier	Montreal
21 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
22 Sheila Finestone, P.C.	Montarville	Montreal
23
24

SENATORS BY PROVINCE—MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Nova Scotia	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Calvin Woodrow Ruck	Dartmouth	Dartmouth
9 J. Bernard Boudreau, P.C.	Nova Scotia	Halifax
10		

NEW BRUNSWICK—10

THE HONOURABLE		
1 Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine
2 Eymard Georges Corbin	Grand-Sault	Grand-Sault
3 Brenda Mary Robertson	Riverview	Shediac
4 Jean-Maurice Simard	Edmundston	Edmundston
5 Noël A. Kinsella	New Brunswick	Fredericton
6 Mabel Margaret DeWare	New Brunswick	Moncton
7 Erminie Joy Cohen	New Brunswick	Saint John
8 John G. Bryden	New Brunswick	Bayfield
9 Rose-Marie Losier-Cool	New Brunswick	Bathurst
10 Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent

PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Melvin Perry Poirier	Prince Edward Island	St. Louis
4		

SENATORS BY PROVINCE—WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg
2 Mira Spivak	Manitoba	Winnipeg
3 Janis Johnson	Winnipeg-Interlake	Winnipeg
4 Terrance R. Stratton	Red River	St. Norbert
5 Sharon Carstairs	Manitoba	Victoria Beach
6 Richard H. Kroft	Manitoba	Winnipeg

BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver
3 Jack Austin, P.C.	Vancouver South	Vancouver
4 Pat Carney, P.C.	British Columbia	Vancouver
5 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
6 Ross Fitzpatrick	Okanagan-Similkameen	Kamloops

SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 Eric Arthur Berntson	Saskatchewan	Saskatoon
3 A. Raynell Andreychuk	Regina	Regina
4 Leonard J. Gustafson	Saskatchewan	Macoun
5 David Tkachuk	Saskatchewan	Saskatoon
6 John Wiebe	Saskatchewan	Saskatchewan

ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Nicholas William Taylor	Sturgeon	Bon Accord
4 Thelma J. Chalifoux	Alberta	Morinville
5 Douglas James Roche	Edmonton	Edmonton
6 Tommy Banks	Alberta	Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland	Port-au-Port
3 William H. Rompkey, P.C.	Newfoundland	North West River, Labrador
4 Joan Cook	Newfoundland	St. John's
5 George Furey	Newfoundland	St. John's
6

NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

DIVISIONAL SENATORS

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Normand Grimard	Quebec	Noranda, Que.
2 Thérèse Lavoie-Roux	Quebec	Montreal, Que.

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of June 1, 2000)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Chalifoux**Honourable Senators:**

Andreychuk,	Chalifoux,
Austin,	Christensen,
*Boudreau,	DeWare,
(or Hays)	Gill,

Deputy Chair: Honourable Senator St. Germain

Johnson	Sibbeston,
*Lynch-Staunton,	St. Germain,
(or Kinsella)	Watt.
Pearson,	

Original Members as nominated by the Committee of Selection

*Andreychuk, Austin, Beaudoin, *Boudreau (or Hays), Chalifoux, Christensen, Comeau, DeWare, Gill, Johnson
Lynch-Staunton (or Kinsella), Pearson, Sibbeston, Watt.

AGRICULTURE AND FORESTRY

Chair: Honourable Senator Gustafson**Honourable Senators:**

*Boudreau,	Gill,
(or Hays)	Gustafson,
Chalifoux,	*Lynch-Staunton,
Fairbairn,	(or Kinsella)
Fitzpatrick,	

Deputy Chair: Honourable Senator Fairbairn

Oliver,	St. Germain,
Robichaud,	Stratton,
(Saint-Louis-de-Kent)	Wiebe.
Rossiter,	
Sparrow,	

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Chalifoux, Fairbairn, Fitzpatrick, Ferretti Barth, Gill, Gustafson, *Lynch-Staunton (or Kinsella),
Oliver, Robichaud (Saint-Louis-de-Kent), Sparrow, Spivak, St. Germain, Stratton.*

THE SUBCOMMITTEE ON FORESTRY
(Agriculture and Forestry)**Chair:** Honourable Senator Fitzpatrick**Honourable Senators:**

*Boudreau,	Fitzpatrick,
(or Hays)	Gill,
Fairbairn,	

Deputy Chair: Honourable Senator St. Germain

*Lynch-Staunton,	St. Germain,
(or Kinsella)	Stratton.

BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Kolber
Honourable Senators:

Deputy Chair: Honourable Senator Tkachuk

Angus,	Furey,	Kolber,	Meighen,
*Boudreau (or Hays)	Hervieux-Payette,	Kroft,	Oliver,
Fitzpatrick,	Kelleher,	*Lynch-Staunton, (or Kinsella)	Poulin Tkachuk.

Original Members as nominated by the Committee of Selection

Angus, *Boudreau (or Hays), Fitzpatrick, Furey, Hervieux-Payette, Joyal, Kelleher, Kenny, Kolber,
 *Lynch-Staunton (or Kinsella), Meighen, Oliver, Tkachuk.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair: Honourable Senator Spivak
Honourable Senators:

Deputy Chair: Honourable Senator Taylor

Adams,	Christensen,	Kelleher,	Spivak,
Banks,	Cochrane,	Kenny,	Taylor.
*Boudreau, (or Hays)	Eyton,	*Lynch-Staunton, (or Kinsella)	
Buchanan,	Finnerty,	Sibbeston,	

Original Members as nominated by the Committee of Selection

Adams, *Boudreau (or Hays), Buchanan, Chalifoux, Christensen, Cochrane, Eyton, Furey,
 Kenny, *Lynch-Staunton (or Kinsella), Sibbeston, Spivak, St. Germain, Taylor.

FISHERIES

Chair: Honourable Senator Comeau
Honourable Senators:

Deputy Chair: Honourable Senator Perrault

*Boudreau, (or Hays)	Cook,	Mahovlich,	Perry,
Carney	Furey,	Meighen,	Robertson,
Comeau,	Johnson,	Perrault,	Robichaud, (Saint-Louis-de-Kent)
	*Lynch-Staunton, (or Kinsella)		Watt.

Original Members as nominated by the Committee of Selection

*Boudreau (or Hays), Carney, Comeau, Cook, Doody, Furey, *Lynch-Staunton (or Kinsella), Mahovlich,
 Meighen, Murray, Perrault, Perry, Robichaud (Saint-Louis-de-Kent), Watt.

FOREIGN AFFAIRS

Chair: Honourable Senator Stollery
Honourable Senators:

Andreychuk,	Carney,
Atkins,	Corbin,
Bolduc,	De Bané,
*Boudreau, (or Hays)	

Deputy Chair: Honourable Senator Andreychuk

Di Nino,	Pearson,
Furey,	Stollery,
Grafstein,	Taylor.
*Lynch-Staunton, (or Kinsella)	

Original Members as nominated by the Committee of Selection

*Andreychuk, Atkins, Bolduc, *Boudreau (or Hays), Corbin, Carney, De Bané, Di Nino, Grafstein, Lewis, Losier-Cool, *Lynch-Staunton (or Kinsella), Stewart, Stollery.*

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Rompkey
Honourable Senators:

*Boudreau (or Hays)	De Ware,
Callbeck,	Forrestall,
Cohen,	Kelly,
Comeau,	Kenny,
De Bané,	

Deputy Chair: Honourable Senator Nolin

Kroft,	Nolin,
*Lynch-Staunton, (or Kinsella)	Robichaud, (Saint-Louis-de-Kent)
Maheu,	Rompkey,
Milne,	Stollery.

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Cohen, De Bané, De Ware, Forrestall, Kelly, Kenny, Kroft, *Lynch-Staunton (or Kinsella), Maheu, Milne, Nolin, Poulin, Robichaud (Saint-Louis-de-Kent), Rompkey, Rossiter, Stollery.*

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Milne
Honourable Senators:

Andreychuk,	Cools,
Beaudoin,	Fraser,
Buchanan,	Joyal,
*Boudreau (or Hays).	

Deputy Chair: Honourable Senator Beaudoin

*Lynch-Staunton, (or Kinsella)	Nolin,
Milne,	Pearson.
Moore,	Pépin.

Original Members as nominated by the Committee of Selection

*Andreychuk, Beaudoin, *Boudreau (or Hays), Cools, Fraser, Gitter, Joyal, Kelleher, *Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson, Poy.*

LIBRARY OF PARLIAMENT (Joint)**Joint Chair: Honourable Senator Louis Robichaud****Deputy Chair:****Honourable Senators:**

Atkins,

Grafstein,

Poy,

Robichaud,

Finnerty,

Grimard,

(L'Acadie-Acadia)

Ruck.

*Original Members agreed to by Motion of the Senate**Atkins, Finnerty, Grafstein, Poy, Robichaud (L'Acadie-Acadia), Ruck.***NATIONAL FINANCE****Chair: Honourable Senator Murray****Deputy Chair: Honourable Senator Cools****Honourable Senators:**

Bolduc,

Doody,

Kinsella,

Moore,

*Boudreau,
(or Hays)

Ferretti Barth,

*Lynch-Staunton,
(or Kinsella)

Murray,

Cools,

Finestone,

Mahovlich,

Stratton.

Finnerty,

*Original Members as nominated by the Committee of Selection**Bolduc, *Boudreau (or Hays), Cools, Finestone, Finnerty, Ferretti Barth, Kinsella,***Lynch-Staunton (or Kinsella), Mahovlich, Moore, Murray, Perry, Stratton.***OFFICIAL LANGUAGES (Joint)****Joint Chair: Honourable Senator Losier-Cool****Deputy Chair:****Honourable Senators:**

Beaudoin,

Gauthier,

Losier-Cool,

Rivest.

Fraser,

Robichaud,

(L'Acadie-Acadia)

*Original Members agreed to by Motion of the Senate**Beaudoin, Fraser, Gauthier, Losier-Cool, Meighen, P  pin, Rivest, Robichaud (L'Acadie-Acadia).*

PRIVILEGES, STANDING RULES AND ORDERS

Chair: Honourable Senator Austin

Honourable Senators:

Andreychuk,	DeWare,
Austin,	Di Nino,
*Boudreau,	Gauthier,
(or Hays)	Grafstein,
Corbin,	Grimard,

Deputy Chair: Honourable Senator Grimard

Joyal,	*Lynch-Staunton,
Kelly,	(or Kinsella)
Kroft,	Robichaud,
Losier-Cool,	(L'Acadie-Acadia).
	Rossiter.

Original Members as nominated by the Committee of Selection

*Austin, Bacon, Beaudoin, *Boudreau (or Hays), DeWare, Gauthier, Ghitter, Grafstein, Grimard, Joyal, Kelly, Kroft, *Lynch-Staunton (or Kinsella), Maheu, Pépin, Robichaud (L'Acadie-Acadia), Rossiter.*

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Senator Hervieux-Payette

Honourable Senators:

Bryden,	Finestone,
Cochrane,	Grimard,

Deputy Chair:

Hervieux-Payette,	Rivest,
Moore,	Wiebe.

Original Members as nominated by the Committee of Selection

Cochrane, Finestone, Furey, Grimard, Hervieux-Payette, Moore, Perry, Rivest.

SELECTION

Chair: Honourable Senator Mercier

Honourable Senators:

Atkins,	DeWare,
Austin,	Fairbairn,
*Boudreau,	Grafstein,
(or Hays)	

Deputy Chair:

Kinsella,	Mercier,
Kirby,	Murray.
*Lynch-Staunton,	
(or Kinsella)	

Original Members agreed to by Motion of the Senate

*Atkins, Austin, *Boudreau (or Hays), DeWare, Fairbairn, Grafstein, Kinsella, Kirby, *Lynch-Staunton or (Kinsella), Mercier, Murray.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair:	Honourable Senator Kirby	Deputy Chair:	Honourable Senator LeBreton
Honourable Senators:			
Beaudoin,	Carstairs,	Gill,	*Lynch-Staunton, (or Kinsella)
*Boudreau, (or Hays)	Cohen,	Keon,	Pépin,
Callbeck,	Cook,	Kirby,	Roberston.
	Corbin,	LeBreton,	

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Callbeck, Carstairs, Cohen, Cook, Di Nino, Fairbairn, Gill, Kirby, Lavoie-Roux, LeBreton, *Lynch-Staunton (or Kinsella), Pépin, Robertson.*

THE SUBCOMMITTEE TO UPDATE "OF LIFE AND DEATH" (Social Affairs, Science and Technology)

Chair:	Honourable Senator Carstairs	Deputy Chair:	Honourable Senator Beaudoin
Honourable Senators:			
Beaudoin,	Carstairs,	Keon,	Pépin.
*Boudreau, (or Hays)	Corbin,	*Lynch-Staunton, (or Kinsella)	

THE SUBCOMMITTEE ON VETERANS AFFAIRS (Social Affairs, Science and Technology)

Chair:	Honourable Senator	Deputy Chair:	Honourable Senator
Honourable Senators:			
Atkins,	Fairbairn,	*Lynch-Staunton, (or Kinsella)	Meighen,
*Boudreau, (or Hays)	Kirby,		Pépin.

THE SPECIAL SENATE COMMITTEE ON BILL C-20

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Kinsella

Honourable Senators:

Beaudoin,	De Bané,
Bolduc,	Fraser,
*Boudreau, (or Hays)	Furey,
Chalifoux,	Hervieux-Payette,
	Kenny,

Kinsella,	Nolin,
*Lynch-Staunton, (or Kinsella)	Rivest,
Milne,	Robichaud (Saint-Louis-de-Kent),
Murray,	Rompkey.

Original Members as nominated by the Committee of Selection

*Beaudoin, Bolduc, *Boudreau (or Hays), Chalifoux, Fraser, Furey, Gill, Hervieux-Payette, Kenny, Kinsella, Kroft, *Lynch-Staunton (or Kinsella), Milne, Murray, Nolin, Poulin, Rivest.*

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Bacon

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Adams,	Callbeck,
Bacon,	Finestone,
*Boudreau, (or Hays)	Forrestall,
	Johnson,

Kirby,	Poulin,
*Lynch-Staunton, (or Kinsella)	Roberge,
Perrault,	Spivak.

Original Members as nominated by the Committee of Selection

*Adams, Bacon, *Boudreau (or Hays), Callbeck, Finestone, Forrestall, Johnson, Kirby, LeBreton, *Lynch-Staunton (or Kinsella), Perrault, Poulin, Roberge, Spivak.*

THE SUBCOMMITTEE ON COMMUNICATIONS (Transport and Communications)

Chair: Honourable Senator Poulin

Deputy Chair: Honourable Senator Spivak

Honourable Senators:

*Boudreau, (or Hays)	Finestone,
	Johnson,

*Lynch-Staunton, (or Kinsella)	Poulin,
Perrault,	Spivak.

THE SUBCOMMITTEE ON TRANSPORTATION SAFETY
(Transport and Communications)

Chair: Honourable Senator Forestall

Honourable Senators:

Adams,

Callback,

*Boudreau,
(or Hays)

Forestall,

Deputy Chair: Honourable Senator Adams

*Lynch-Staunton,
(or Kinsella)

Perrault,

Roberge.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)
Thursday, June 1, 2000

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	0	99/12/16		
				Foreign Affairs	99/12/09	0			
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs	99/12/16	2	00/02/09		
S-17	An Act respecting marine liability, and to validate certain by-laws and regulations	00/03/02	00/04/04	Transport and Communications	00/05/09	2	00/05/17		
S-18	An Act to amend the National Defence Act (non-deployment of persons under the age of eighteen years to theatres of hostilities)	00/03/21	00/04/04	Foreign Affairs	00/05/04	0	00/05/16		
S-19	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	00/03/21	00/04/06	Banking, Trade and Commerce					
S-22	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	00/05/11	00/05/18	Legal and Constitutional Affairs					

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act respecting the election of members to the House of Commons, repealing other Acts relating to elections and making consequential amendments to other Acts	00/02/29	00/03/28	Legal and Constitutional Affairs	00/04/13	0	00/05/31	00/05/31	9/00
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	0	99/12/14	99/12/16	35/99

C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02		99/12/06	99/12/09	00/04/13	5/00
			Subject matter 99/11/24				
		99/12/06	Social Affairs, Science and Technology	2			
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	99/11/30	99/12/08	00/03/30	1/00
			Legal and Constitutional Affairs				
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14	00/02/10	00/03/29	00/04/13	00/04/13	7/00
			Aboriginal Peoples	0			
C-10	An Act to amend the Municipal Grants Act	00/03/28	00/04/10	00/05/04	00/05/09	00/05/31	8/00
			National Finance	0			
C-12	An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts	00/06/01					
C-13	An Act to establish the Canadian Institutes of Health Research, to repeal the Medical Research Council Act and to make consequential amendments to other Acts	00/03/30	00/04/04	00/04/06	00/04/10	00/04/13	6/00
			Social Affairs, Science and Technology	0			
C-16	An Act respecting Canadian citizenship	00/05/31					
C-20	An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference	00/03/21	00/05/18				
			Special Committee of the Senate on Bill C-20				
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14	99/12/15	-	99/12/16	99/12/16	36/99
				-			
C-22	An Act to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence	00/05/09 (withdrawn 00/05/11)	00/05/17				
			Legal and Constitutional Affairs (withdrawn 00/05/18)				
		00/05/11 (reintro- duced)	Banking, Trade and Commerce (00/05/18)				
C-23	An Act to modernize the Statutes of Canada in relation to benefits and obligations	00/04/12	00/05/09				
			Legal and Constitutional Affairs				
C-26	An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence	00/05/16	00/05/30				
			Transport and Communications				
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	00/03/23	00/03/28	-	00/03/29	00/03/30	3/00
				-			
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	00/03/23	00/03/28	-	00/03/29	00/03/30	4/00
				-			

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-202	An Act to amend the Criminal Code (flight)	00/02/08	00/02/22	Legal and Constitutional Affairs	00/03/02	0	00/03/21	00/03/30	2/00
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02	00/05/18	Legal and Constitutional Affairs					
C-276	An Act to amend the Competition Act (negative option marketing)	00/05/18							
C-445	An Act to change the name of the electoral district of Rimouski—Mitis	00/05/09							
C-473	An Act to change the names of certain electoral districts	00/04/10							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13	00/02/23	Legal and Constitutional Affairs					
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin) <i>(Dropped from Order Paper pursuant to Rule 27(3) 00/05/11)</i>	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02	00/02/22	Social Affairs, Science and Technology					
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02	00/02/22	Privileges, Standing Rules and Orders					
S-8	An Act to amend the Immigration Act (Sen. Ghitter) <i>(Dropped from Order Paper pursuant to Rule 27(3) 00/05/04)</i>	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03	00/05/04	Legal and Constitutional Affairs					

S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault, P.C.) <i>(Dropped from Order Paper pursuant to Rule 27(3) 00/02/08)</i> <i>(Restored to Order Paper 00/02/23)</i>	99/11/04							
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18							
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02	00/02/22	National Finance					
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16							
S-16	An Act respecting Sir John A. Macdonald Day (Sen. Grimard)	00/02/22							
S-20	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	00/04/05	00/05/09	Energy, the Environment and Natural Resources					
S-21	An Act to protect heritage lighthouses (Sen. Forrestall)	00/04/12	00/06/01	Fisheries					

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	—	—	—	99/12/08	00/03/30	

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OFFICIAL REPORT
(HANSARD)

Tuesday, June 6, 2000

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Tuesday, June 6, 2000

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

WORLD WAR II

FIFTY-SIXTH ANNIVERSARY OF D-DAY

Hon. J. Michael Forrestall: Honourable senators, I rise today, on the anniversary of D-Day, to commemorate the contributions and sacrifices made by Canadian soldiers during one of the most important battles of World War II. By land, sea and air, thousands of brave Canadians fought valiantly to defeat the Nazi regime.

D-Day marked the beginning of the liberation of occupied Europe from Nazi Germany. In the early morning hours of June 6, 1944, thousands of Allied soldiers, including many Canadians, stormed a 50-mile stretch of beach in Normandy, France. The gruesome battle that ensued took the lives of many, quashing their dreams and hopes for the future.

Honourable senators, World War II saw many heroes, both at home and abroad. Today, in recognition of D-Day, I should like to pay tribute to the bravery and strength of some of those unsung heroes.

On Sunday, May 28, 15,000 to 20,000 Canadians came to Parliament Hill to pay tribute to the Unknown Soldier. Brought home to Canadian soil at last, he represents every Canadian who made the supreme sacrifice for the freedom and peace that we enjoy today. It was an emotional day, a remembrance of a time not that long ago when the world was in turmoil and the entire nation united to save the free world.

On this anniversary of D-Day, honourable senators, we need to reflect once more on the sacrifices that were made and the lives that were lost, both in the Second World War and in other wars, by men and women who answered the call to arms on behalf of their fellow citizens.

D-Day is also an opportunity to pay special tribute to the women of Canada who responded to the call of duty, without whose unfailing commitment we would never have been so successful. While their sons, fathers, brothers, uncles and nephews were leaving Canada to fight, the women were left behind to keep their families going and to contribute to Canada's war effort on farms, in factories, on fishing boats and in orchards. There was much to be done and these women rose to that challenge.

Although the government was at first reluctant to allow females into the service, finally, in July of 1941, the Women's Division of the Royal Canadian Air Force was authorized and quickly enlisted thousands of young women. During the Second World War, more than 45,000 Canadian women volunteered for military service. Whether overseas or on the home front, Canadian women played a key role in the war effort and deserve our thanks.

Honourable senators, the eventual victory of the Allied forces did not come without a heavy price. As we recognize D-Day, let us take a moment to reflect on the sacrifices of these men and women who deserve our undying gratitude.

Hon. Senators: Hear, hear!

THE SENATE

ACTIVITIES DURING ENVIRONMENT WEEK

Hon. Bill Rompkey: Honourable senators, on behalf of the Senate Green Committee, I should like to bring to your attention some of the events that are planned for Environment Week, which runs from June 4 to June 10. There will be a kiosk set up in the Senate buildings where senators and staff can show their commitment to the environment by purchasing trees from Tree Canada and Senate coffee mugs made from recycled plastic that bear the new Senate Green Committee logo.

I should also like to draw the attention of senators to our new Senate Green Committee Web site now available on the Internet.

I wish to congratulate those involved in organizing the Senate Environment Week activities. I encourage all senators to participate and to support our commitment to the greening of Parliament Hill and to the environment in general.

CHINA

ELEVENTH ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

Hon. Consiglio Di Nino: Honourable senators, this week marks the eleventh anniversary of the massacre in Tiananmen Square. On June 4, 1989, thousands of unarmed civilians, mostly students, were murdered and maimed by heavily armed Chinese troops and military tanks that had been ordered to clear the streets of pro-democracy demonstrators.

• (1410)

Since that tragic day, the word "Tiananmen" has come to symbolize the crushing of the flower of youth, of hope, of democracy and of individual freedom. The terrible images of June 4, 1989 remain with us.

Many of those who survived the Tiananmen Square massacre are today in prison. Many more are still unaccounted for. The majority of the young men and women who were jailed faced kangaroo courts. Some were tortured to extract confessions. Others received sentences far out of proportion to the crimes that they allegedly committed, and those who have since been released find their movements closely monitored and their freedom severely restricted.

Honourable senators, June 4 is also a day of remembrance. It is a time when we remember the families of those killed and injured on the orders of the Chinese leadership for daring to support the struggle for greater freedom in China. On a broader scale, it is a time when those of us who enjoy the fruits of democracy hopefully will once again take a moment to offer prayer for the millions of people around the world who live under tyranny and terror.

Hon. Vivienne Poy: Honourable senators, last Sunday, June 4, evoked horrible memories of the events that occurred in Tiananmen Square 11 years ago. Many of us watched the massacre of unarmed students and civilians on television, but few of us understood why the tragedy happened.

Deng Xiao Ping's motto of "Getting Rich is Glorious" unleashed carnivorous appetites in individuals in China, while political and social reforms were neglected. The fabric of society had come apart. For example, eminent university professors could not feed their families on salaries of \$200 to \$300 per month, in comparison to taxi drivers, whose licences could only be obtained with connections, making \$10,000 monthly. Everyone could see government officials and their cohorts amassing fortunes and living the high life. China had become a country owned by the political elite.

Traditionally, intellectuals in China bear the responsibility of society. Students petitioned the government for political reform and an end to official corruption. The support they received from the workers and the general population proved the existence of tremendous discontent. Protests that started in 1986 had spread to over 80 cities, involving 600 tertiary institutions and nearly 3 million students by June 1989.

Events could have turned out very differently as many of us had hoped. The initial flip-flop of the leaders in Beijing was believed to be a power struggle among the leadership. Battalions were dispatched from different regions of the country, not only to disperse the crowds but also to guard against each other. The population in Tiananmen Square actually expected rubber bullets and water hoses. When the troops started firing and the tanks mowed people under, the crowd was taken by surprise. Subsequently, people in Beijing said that they could not believe that they could have been so brave, but to paraphrase Karl Marx, "they had nothing to lose but their chains."

Despite the official denial, the Chinese Democracy Movement recently set up a Web site showing an hour of television news clips of the events of 1989. Within the first four days, over
[Senator Di Nino]

10,000 users in China had downloaded the information, and every day, hundreds of emotional e-mails have been received.

Honourable senators, Ya Ding, a young Chinese novelist living in exile in Paris, commented soon after the massacre, "An old man is dying, but a child is born." That child is democracy.

ROUTINE PROCEEDINGS

CHIEF ELECTORAL OFFICER

ANNUAL REPORT TABLED

The Hon. the Speaker *pro tempore*: Honourable senators, I have the honour to table the report of the Chief Electoral Officer for the fiscal year ended March 31, 2000, pursuant to the Privacy Act, R.S. 1985, c. P-21, subsection 72(2).

DEVELOPMENTS RESPECTING EUTHANASIA AND ASSISTED SUICIDE

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Sharon Carstairs: Honourable senators, on behalf of the Honourable Senator Kirby, I have the honour to table the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology entitled, "Quality End-of-Life Care: the Right of Every Canadian."

Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(j), I move that the report be considered later this day.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Honourable senators, when on the Order Paper will this report be considered?

Senator Carstairs: Honourable senators, it should be the last item under Reports of Committees.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TENTH REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey: Honourable senators, I have the honour to present the tenth report of the Standing Committee on Internal Economy, Budgets and Administration regarding committee budgets. It represents a further allocation of funds for committees to do their work this year.

Tuesday, June 6, 2000

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

TENTH REPORT

Notwithstanding the *Procedural Guidelines for the Financial Operations of Senate Committees*, your Committee recommends that the following additional funds be released for fiscal year 2000-2001. These funds are in addition to those recommended by the Committee in its Seventh Report, adopted by the Senate on April 7, 2000.

Aboriginal Peoples

Special Study	\$45,411
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Agriculture and Forestry

Subcommittee on Forestry	\$184,275
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Banking, Trade and Commerce

Legislation	\$93,636
Financial Systems	\$42,459

Energy, Environment and Natural Resources

Legislation	\$4,600
Examination of Issues Relating to Energy Environment and Natural Resources	\$60,324

Fisheries

Special Study	\$92,282
---------------	----------

Foreign Affairs

Legislation	\$9,900
Special Study	\$74,637

Library of Parliament (Joint)

(Senate Share)	\$1,667
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Official Languages (Joint)

(Senate Share)	\$1,430
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Social Affairs, Science and Technology

Legislation	\$7,650
Special Study on Health Care System	\$23,233

Transport and Communications

Legislation	\$29,127
Special Study on the Policy Issues for the 21 st Century in Communications Technology	\$28,780

Your Committee also agreed that the following amounts be deducted from those previously approved:

Agriculture and Forestry

Study on Agriculture	\$19,535
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Privileges, Standing Rules and Orders	\$1,533
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Your Committee will continue to review Committee allocations taking into account historical trends of Committee expenditures and possible changes in the structure of Senate Committees.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

The Hon. the Speaker *pro tempore*: When shall this report be taken into consideration, honourable senators?

On motion of Senator Rompkey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

SIR WILFRID LAURIER DAY BILL

FIRST READING

Hon. John Lynch-Staunton (Leader of the Opposition) presented Bill S-23, respecting Sir Wilfrid Laurier Day.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Lynch-Staunton, bill placed on the Orders of the Day for second reading Thursday next, June 8, 2000.

[Translation]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

REPORT OF CANADIAN DELEGATION TO MEETING
HELD IN PHNOM PENH, CAMBODIA TABLED

Hon. Pierre De Bané: Honourable senators, pursuant to Standing Order 23(6), I have the honour to table in the house, in both official languages, the report of the Canadian section of the Assemblée parlementaire de la Francophonie, as well as the related financial report. The report has to do with the meeting of the Commission on Parliamentary Affairs, held in Phnom Penh, Cambodia, from March 2 to March 4, 2000.

[English]

• (1420)

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—MEMBERSHIP OF
LEADER OF THE GOVERNMENT ON SPECIAL CABINET COMMITTEE
REVIEWING PROCUREMENT

Hon. J. Michael Forrestall: Honourable senators, my question is directed to the Leader of the Government in the Senate. Can he tell us if, among his other responsibilities with government, he is a member of Deputy Prime Minister Gray's cabinet committee that is reviewing the question of the Sea King?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the existence of any internal cabinet committees and their membership would be matters that I would regard, at least at first blush, to be confidential to cabinet.

REPLACEMENT OF SEA KING HELICOPTERS—POSSIBILITY OF
IMMINENT ANNOUNCEMENT ON PROCUREMENT

Hon. J. Michael Forrestall: Honourable senators, if the Leader of the Government in the Senate is not, then why not? Time is passing quickly, honourable senators, and the rumour mill is rife with the understanding that as soon as we are out of here, if not a day or two before that, some announcement of importance to members of the Canadian Armed Forces will be forthcoming with respect to a certain piece of equipment. Can the minister either confirm or deny that?

Hon. J. Bernard Boudreau (Leader of the Government): No, I am afraid I can neither confirm nor deny that rumour.

Senator Forrestall: Honourable senators, so that I am absolutely clear, did the minister say that he cannot or he will not? If he cannot, is it because he does not know?

Senator Boudreau: Yes.

Senator Forrestall: I want to relay that information to people in Halifax West and in Dartmouth.

Senator Boudreau: And to any other riding in Nova Scotia that may be interested, no doubt!

I simply am not in a position, as I stand here before the honourable senator, to either confirm or deny any rumours with respect to government announcements. If there are any government announcements, they are made by the relevant minister in the initial instance, and that is probably a good system.

Senator Forrestall: Soon is coming!

[Translation]

CITIZENSHIP AND IMMIGRATION

FLOW OF SPECIALIZED WORKERS TO THE
UNITED STATES—INCENTIVES TO REMAIN IN CANADA

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. According to press reports, the Americans want to raise the number of people admitted to the United States by offering temporary visas to skilled workers. Obviously, this has a considerable effect on Canada, because every time the Americans open the door to skilled workers, a number of Canadian graduates in a variety of fields — including many nurses, for a long time now — tend to accept positions in the United States.

[English]

There are incentive packages to lure graduates to stay and work in Canada. Could the minister give us any information about that kind of program that would lure graduates to stay in Canada?

Hon. J. Bernard Boudreau (Leader of the Government): In fact, honourable senators, I am not aware of the specifics. However, I am aware that the labour pool, both in the United States and in Canada, has become much more mobile over the last number of years. In certain sectors, for example the medical services sector, there has been some movement from the Canadian labour pool into the United States. However, there has also been significant movement across the board involving people in various professions coming into Canada as well. It might be helpful if I were able to get the statistics — and I saw them at one time but I cannot recite them off the top of my head — to give the honourable senator, and others who may be interested, an idea of that comparison. Essentially, as I recall it, on a net basis with the United States, we are probably down. Overall, however, the situation is reasonably acceptable at the moment.

Senator Bolduc: The problem, honourable senators, is balance between what types of people are leaving the country and what types are coming into the country.

If there is a kind of incentive package to try to keep people here, is it what I would call a fiscal expenditure-type of package, or are there any other types of incentives? There must be some proposition, at least on the immigration side, that would allow officials to make offers to people from outside the country.

Senator Boudreau: I will make specific inquiries of the minister to see if they are in the process of developing any specific incentive packages within that department. There are, however, other measures across government generally that assist in that circumstance. The obvious one, of course, is the program of tax reduction that the government has undertaken and is committed to continuing over the next number of years. That program will have an impact, as will other specific programs.

One that comes to mind is the Chairs of Excellence program. In order to fill those chairs, we will probably have to go outside the country and, to some significant extent, into the United States. That is entirely possible. There are programs across any number of departments that will assist. However, I will ask the Minister for Citizenship and Immigration whether or not she is preparing any specific programs.

Senator Bolduc: Can we expect some statistics with regard to the exchange of people between Canada and the United States, in particular?

Senator Boudreau: Honourable senators, as I said, I have seen some statistics. I will attempt to retrieve them and share them with the honourable senator.

[Translation]

TRANSPORT

AIR CANADA—PROMOTION OF BILINGUALISM

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate. As we know, Canadian Airlines and Air Canada will be combining their operations. Services previously provided by Canadian Airlines will now be provided by Air Canada. People in francophone communities in Canada are very concerned, because they want these services to continue to be provided in both official languages. As private companies are involved, this is the subject of discussions in the amalgamation process. Nevertheless, all Canadians expect that the Government of Canada, which must defend and promote linguistic duality, will assume a role of vigorous leadership and guarantee all Canadians airline services in both official languages. What is the position of the government in this regard?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, yes, that is certainly an objective to be pursued, and one that I am sure the minister and the government share. As well, in the process of my discussions with the minister, I will add the concern and the admonition of the honourable senator to what I believe is already a determination on the part of the minister.

[Translation]

• (1430)

Senator Rivest: Honourable senators, at one time, the statements and commitments of the Government of Canada, under Prime Minister Trudeau or Prime Minister Mulroney, on the subject of bilingualism were significantly more vigorous, articulate and consistent.

As Senator Simard pointed out with considerable interest in a very important report on the state of bilingualism in Canada, and as French-speaking Canadians say and keep saying, there is a sense that the Government of Canada's leadership in defending

and promoting bilingualism is fading. We have seen it in the national capital, in the case of the City of Ottawa, where a Liberal backbencher had to introduce a bill in the House of Commons in order to ensure the bilingualism of the country's capital city.

Would the minister express to cabinet the clear need for a return of government leadership in promoting and defending bilingualism in Canada and therefore without expressions of the Government of Canada's hesitancy, for whatever reason, in taking a strong stand, as Mr. Trudeau did, with all the risk entailed in doing so.

[English]

Senator Boudreau: Honourable senators, I can assure the honourable senator that the present government and, indeed, the present Prime Minister, are definitely committed to the principles that have been espoused by successive governments in this country. While I do not necessarily agree with the premise on which the concern is raised, I will certainly direct the comments of the honourable senator to the government and to the Prime Minister.

Hon. J. Michael Forrestall: Honourable senators, while the minister is doing that, perhaps he could find out — or, if he knows, let us in on it now — why the government did not correct that very real concern with the Air Canada bill which is now before the Standing Senate Committee on Transport and Communications?

Senator Boudreau: Honourable senators, I will await the committee's report to the Senate. I will also review the discussion that took place in the other place with respect to questions involving bilingualism.

RESEARCH AND DEVELOPMENT

REQUIREMENT THAT FEDERAL RESEARCH GRANTS HAVE PRIVATE-SECTOR PARTNERS—EFFECT ON AREAS WITH NO COMMERCIAL INTEREST

Hon. Mira Spivak: Honourable senators, several weeks ago, I asked a question of the Leader of the Government in the Senate about the government's commitment to scientific research and how it goes about funding our premier scientists. Again, it could relate to the question of brain drain.

I cited the case of Dr. David Schindler, an eminent scientist whose work is praised internationally. He has been denied funding for research into pesticide contamination of once-pristine lakes in the Rockies because no corporate partner is willing to put up matching funds, and the reason is obvious. In a recent essay, Canada's Nobel laureate, John Polanyi, described how the current system works for research funding through numerous centres of excellence. When research proposals are evaluated, "We give only a legislated 20 per cent weighting to 'excellence' and a preposterous 80 per cent to considerations of 'socio-economic worth'," which means that federal funding must be matched by industry.

Dr. Schindler has proposed a solution. He suggests that scientists whose work in the public interest is partially funded by Environment Canada or Agriculture Canada and other departments not be denied access to large pools of innovation grants. A simple change of policy to allow departmental funds to count as matching grants would be a first step towards overcoming what Dr. Polanyi describes as an absurd worship of what is described as innovation.

Can the Leader of the Government in the Senate tell us whether the government will alter its funding policies to adopt some sort of proposal, perhaps Dr. Schindler's proposal, and whether it will also review the weighting criteria described by Dr. Polanyi? These are, after all, two of our most eminent Canadian scientists.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the honourable senator is quite correct, in part. When I was describing various programs that impacted on the attraction of certain people to our country, I mentioned the Chairs of Excellence as one example. I could just as easily have mentioned the Canadian Foundation for Innovation, which is a huge government commitment to research and development. In the last two budgets, the government has committed \$1.8 billion. With accumulated interest, it is significantly in excess of \$2 billion. I do not think that, in the history of our country, any government has committed that kind of money to research and development in such a focused program.

The honourable senator says: Yes, but that program may have two problems, one being the criteria on which individual projects are judged. She says that there are some scientists who say the criteria for that program should be changed and that other factors should be used. However, those criteria were developed and are administered by scientists at arm's length from government so that government would not be involved in the day-to-day selection of successful research and development projects.

The other criticism that the honourable senator raises is the necessity for private-sector participation, in sharing, because, in that CFI program, there is a requirement for matching funds. I must say that that requirement is particularly difficult in some areas of the country, such as the one from which I come, because there is not a large private-sector infrastructure under any circumstances interested in participating.

I must also say, honourable senators, that that fund can be accessed with participation from universities and with provincial governments. In some cases, cooperative funding pools have been established by provincial and federal governments together to allow certain matching capabilities. I think it is an initiative that should be considered by various provincial governments and universities, and perhaps the federal government should examine it as well over time. I know it has worked in areas with which I am most familiar. It is a huge commitment. In fact, I think I have announced CFI grants almost every week for the last two months, and the private-sector participation in the ones I have announced has been minimal.

[Senator Spivak]

Senator Spivak: Honourable senators, the government leader seems to be suggesting that the matching grants need not necessarily come from industry, that they could be matching grants of another kind. I will inform Dr. Schindler of that.

The United States has recognized a very important principle, that very little economic benefit comes from strictly speaking industry-governed research, but that great benefit comes from basic research. As Dr. Polanyi says, "Basic science, although scorned as curiosity-driven, is the essential, vital food of a science-based economy." He says, "A national science policy that does not recognize this factor but stakes everything on innovation is as futile as a national athletics program based on steroids and performance-enhancing drugs with no thought to nutrition."

My question to the minister is broader, and I do not expect an answer today. Will the government listen to its most eminent scientists, look at the American example, which has separated basic research from industry-driven research, and consider how it can influence our science and research policy?

Senator Boudreau: Yes, honourable senators. I am curious myself to review the doctor's comments with respect to the application of the CFI program. I will pass along his comments and those of the honourable senator.

• (1440)

The comments that he makes are completely at odds with my experience. Perhaps it is because my experience is with only one region of the country and the program is different elsewhere. That is one of the points I am curious about, and I am interested to review the matter to see if it is the case. Standing here, thinking about the CFI announcements and projects in which I have been involved, every one of them was university-centred and did have some application at some point. Every one of them was research based at a university.

Senator Spivak: Honourable senators, I have a final comment. The point is that many universities are now dependent on industry as well. We are talking about pure basic research that is in the public interest.

[Translation]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker *pro tempore*: Honourable senators, I am pleased to welcome the pages of the House of Commons, who are here this week as part of the exchange program with the Senate.

Candice Bazinet is from Blind River, Ontario, and is a student at the University of Ottawa. She is studying international management at the Faculty of Administration.

[English]

Simone Godbout is studying at the Faculty of Public Affairs in Policy Management at Carleton University. Simone is from Sherwood Park, Alberta.

Elise Wouterloot is studying at the Faculty of Arts at the University of Ottawa. She is from Mission, British Columbia.

To all three pages, I wish you a very good week here in the Senate. Welcome.

Hon. Senators: Hear, hear!

ORDERS OF THE DAY

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE ADJOURNED

Hon. Sheila Finestone moved the second reading of Bill C-16, respecting Canadian citizenship.

She said: Honourable senators, I am pleased to introduce second reading of the new Citizenship of Canada Act. This legislation helps to define who we are as Canadians. It is not a glitzy ad, sharpened and honed by copywriters. Rather, it is a reflection of the values that we share. Bill C-16 sends a message to the world that the currency of Canadian citizenship is not dollars or showmanship, but honesty; an often quiet, nonetheless deeply held commitment to equality, tolerance, freedom and the celebration of our diversity.

The first Citizenship Act of 1947 was also such an expression. It came into being largely through the efforts of one man, a cabinet minister by the name of Paul Martin, Sr. While visiting a military cemetery in France during the closing months of the war, Mr. Martin was moved by the rows of wooden crosses marking the graves of Canadians who had sacrificed their lives in the fight for peace and freedom. These soldiers of different ethnic and religious backgrounds had all fought and died for a common cause. In their memory, Mr. Martin tirelessly crusaded to establish a Canadian citizenship act. On January 1, 1947, the Citizenship Act came into being, bringing with it a separate Canadian identity — yes, new rights for Canadian women, and our own Canadian passports.

The 1947 act reflected the social mores and attitudes of the time. It was revised in 1977, and once again we are in the process of modernizing the Citizenship Act. Bill C-16 reflects the values of Canadian society in the 21st century.

This bill promotes equality for all who seek to become Canadians by treating adopted children in a similar manner to

natural-born children, and it extends the citizenship process to common-law and same-sex partners of Canadians. Bill C-16 creates a process that is fair and fast, and requires a clear attachment to Canada.

[Translation]

During the last Parliament, the former minister of Citizenship and Immigration, the Honourable Lucienne Robillard, had introduced Bill C-63. This bill was thoroughly examined by the House of Commons and also during hearings and consultations held by the Standing Committee on Citizenship and Immigration.

A large number of the standing committee's recommendations were incorporated into Bill C-16, including the requirement for an applicant to have resided in Canada for three years during the six years preceding the application for citizenship. The committee also reviewed Bill C-16 and made some good recommendations to clarify the proposed process and to make it more strict.

[English]

A key element of this new Citizenship Act is the definition of "physical presence." The current Citizenship Act includes a residency requirement of three years out of four years. However, it failed to define what is specifically meant by "residency." Therefore, over the past several decades we have seen many inconsistent rulings on what constitutes residency. In one instance, an individual was found to be a resident in Canada after only two days of physical presence, while in another circumstance a person was required to be in Canada over 1,000 days in order to meet the requirements of residency. Such inconsistency is unfair and erodes the credibility of the citizenship process.

Canadians have been clear that they believe that integrity of citizenship means having an attachment to Canada. I believe an attachment to Canada comes through familiarity with our languages, our customs, our diverse cultures and our communities.

One really must be in Canada to know what it means to be Canadian. The House standing committee, during its review of Bill C-63, proposed that a person should be physically present in Canada for a minimum of three years out of six in order to receive citizenship. This makes sense. Bill C-16 makes it clear that physical presence is a requirement of citizenship and one must be in Canada for those three years out of six in order to qualify, or for 1,095 days. I would say that is a big improvement, from three years out of four to three years out of six.

Physical presence will be assessed through a variety of ways. Most important, there is presumption of truthfulness for all those who apply to become Canadian citizens. There is a quality assurance program in place to assess the reliability of the information that is provided by the applicants.

Finally, an applicant will be required to provide evidence establishing that he or she has been physically present in Canada. One thousand and ninety-five days is a reasonable number. However, for those who feel that they have demonstrated and have a strong attachment to Canada, that their families are well established, and that for reasons of global economy they may not meet the 1,095-day provision, it is important to know that they can make a petition to the Governor in Council for special consideration.

We know that there are people legally in Canada who do not yet have permanent resident status. They may have refugee status. They may be here as students or on temporary work permits. A provision of this legislation states that each day that they were here is the equivalent of one-half day, and they can accumulate up to one year, that is up to 365 days, to apply toward their citizenship requirement of 1,095 days. In this manner it acknowledges that sometimes people with legal status are here awaiting the time when they can make a decision to become permanent residents of Canada and then apply for citizenship. I believe that is a logical undertaking.

With respect to adoption, Bill C-16 proposes another important change to ensure consistency and equal treatment.

• (1450)

Under Bill C-16, children adopted abroad by Canadians will no longer be immigrants to their new country. It will allow parents to bring their children home as Canadians. This bill will see that children adopted abroad by a Canadian parent are treated in a manner equal to children born of Canadians abroad and ensure that our Citizenship Act is consistent with our Charter of Rights and Freedoms.

[Translation]

As we know, adoption comes under provincial and territorial jurisdiction. The government has responsibility for admitting adopted children into Canada as immigrants or as citizens, as proposed in Bill C-16. However, the government still works closely with provincial and territorial authorities to ensure full compliance with the adoption process.

Bill C-16 respects the principles underlying the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

As a signatory to this convention, Canada recognizes that several important factors must be taken into account in the adoption process. Adoption must be in the best interests of the child. The government has not defined this concept in Bill C-16, in order to be able to take into account new problems which might arise later. Nevertheless, the concept includes the need for a study of the family environment in order to ensure that parents will be able to meet the needs of the child being adopted.

Any adoption must create a genuine relationship of parent and child. Once again, this is a stipulation not just of the convention

[Senator Finestone]

and of the federal government, but also of provincial and territorial authorities with responsibility for matters of adoption.

[English]

Under Bill C-16, a medical examination of the adopted child will be for information purposes only, which is only fair. Under our current legislation, a province could deny an adoption if the medical condition of the child would cause excessive demands on the health care system. However, in practice, a province rarely objects once it is satisfied that the attending partners or parents are aware of the medical condition and that they have the ability to manage its challenges.

The change in Bill C-16 reflects the current reality. This change in the process of adoption will be retroactive to any adoption after 1977.

While the factors to be considered for the awarding of citizenship to an adopted child will be the same, the weighing of the factors will be, of course, different between, for example, an adult who was adopted over 20 years ago and a newborn baby.

With respect to the change around judges and commissioners, Bill C-16 also includes an important change to the role of commissioners. Our current citizenship process involves the use of citizenship judges, who must consider each single citizenship application. That is a tiresome task. However, as 80 per cent of our citizenship cases are straightforward and do not need to be reviewed by a judge in person, it is a waste of time and a misuse of opportunity for these wonderful people who serve as our judges.

Instead, Bill C-16 proposes to use a clear, consistent process to make decisions on citizenship applications. The role of the judge will be replaced by the commissioner, who will oversee citizenship ceremonies. The commissioners will get out into the community and the schools and talk to people about what it means to be a Canadian. They will promote active citizenship. I am sure many honourable senators know judges who are presently titled judges and who take on this task. It is important that it be part and parcel of the responsibility in a formal sense. Commissioners will continue to be appointed by Governor in Council. They will be selected on the basis of their good standing in the community and their past valuable civic contributions. The bill not only supports a high calibre candidate but also the increased community-oriented role of the commissioner.

Commissioners will also provide valuable advice and consultation to the minister on citizenship matters. They will be an important link between the community and the minister, and will have an advisory role on programmatic issues. That is very important because, in effect, this links civil society to the minister to governance.

Bill C-16 modernizes Canadian citizenship. It strengthens the integrity of citizenship by making the requirements clear and the process consistent.

I will now address the question of revocation, which has caused some concern. If people have misrepresented themselves and, as a result, were never entitled to citizenship in the first place, there is an annulment provision in the legislation which requires the minister to give notice and let people know that judicial review is possible. It assumes that if someone were not entitled to be here in the first place, if there is clear evidence of fraud or misrepresentation, citizenship should be annulled.

Criminality, criminal or false identity are the primary provisions for annulment. Revocation builds on the lessons of the past by including a mechanism to remove citizenship if it is obtained by fraud, hate crimes, et cetera. Revocation of citizenship is not new, nor has the process been changed. Bill C-16 incorporates the revocation process that has been in place for the last 23 years.

Revocation of citizenship is a serious matter. First, the government must prove, beyond a reasonable doubt, that a person knowingly acquired citizenship through fraud, false representation or concealment of material fact. Then the minister must meet two obligations before making a recommendation to the Governor in Council. The minister must inform the individual of her intention to make a report to revoke citizenship to the Governor in Council. The minister must, at the same time, inform the person that he or she has a 30-day opportunity to refer the matter to the Federal Court of Canada, Trial Division.

Some members of the other place have suggested that the revocation process lacks natural justice and due process. This is simply not the case. Each administrative decision point along the revocation process can be submitted to the Federal Court for judicial review. It is a process and there are many cases where one can get judicial review. From the minister's notice of intent to the final decision rendered by the Governor in Council, the Federal Court can review the decision. The review can also be appealed to the Federal Court of Appeal and, if leave is granted, to the Supreme Court of Canada. There are 15 cases that have proved this process all along the way.

The final appeal rests with the Governor in Council and, unlike a court, the Governor in Council can consider humanitarian and compassionate reasons why citizenship should not be revoked. It is an appeal that would not be available if the courts rendered the final decision on the revocation of citizenship. By the way, this same process is found in almost all Commonwealth countries. This process has been tested all the way to the Supreme Court of Canada and it is a fair process.

Honourable senators, the revocation process is built upon our parliamentary traditions. The power to award citizenship rests with the executive who, as elected members, are accountable to the legislature and to the people for their decisions. The power to remove citizenship must, therefore, also remain with the executive.

Any proposal to create a judicial revocation process would have the effect of removing the power of citizenship now held by

the executive and putting it into the hands of the judiciary. Such a proposal attempts to mimic the American style of government but without the important checks and balances that are included in that system. I do not believe that this is the Canadian way.

[Translation]

Honourable senators, I think that you will agree that we must not start dismantling our parliamentary system piece by piece.

Canadian citizenship is not a right but a privilege. This privilege must not be granted to those who enter Canada or acquire status here through deceit. Above all, Canada must not harbour war criminals or individuals guilty of crimes against humanity.

[English]

• (1500)

The last matter I wish to address today is the question of penalties. In addition to other strengthening measures, Bill C-16 will bring in strong penalties against the abusive practices of some consultants and third-party agents who take advantage of immigrants with limited language skills or limited exposure to governmental services. Bill C-16 clearly seeks to maintain citizenship integrity.

Honourable senators, let me close by reminding you that this country was built by people from all over the world who came here honestly in pursuit of new opportunities and old dreams. The proposed Citizenship of Canada Act strengthens the value of Canadian citizenship by modernizing our citizenship law and process. It does more than clarify issues in the current law; it ensures that our citizenship law continues to reflect what Canadians believe citizenship should mean and what it means to be a Canadian citizen.

Honourable senators, most of us are immigrants. We have all worked to make Canada the beacon of economic hope and democratic freedom that it is today. This act honours our immigrants by affirming both the core values that we share and their enduring commitment to the true north, strong and free. It is a bill that has been a long time in coming — one that Canadians will be proud to see come into law.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, perhaps the Honourable Senator Finestone would answer a few questions?

Senator Finestone: Of course.

Senator Kinsella: Honourable senators, might Senator Finestone confirm that this is the third time Parliament will have adopted, should we adopt this bill, a Canadian citizenship act, the first Canadian citizenship act being in I believe 1947 and the second one in the mid-1960s or mid-1970s? Is this indeed the third time?

Senator Finestone: Yes. In 1947, Paul Martin, Sr. brought in a citizenship act as an act of humanity and caring. In 1977, we reviewed it in light of the Charter and other issues. It has been brought up to date, and this is the next 30-year slot. We are into the third revision.

Senator Kinsella: Does Senator Finestone agree that the bill, as she outlined it, really speaks to the issue of naturalization and that perhaps it is a misnomer to call this "an act respecting Canadian citizenship"? That would lead us to believe it is about Canadian citizenship, addressing the 30 million Canadian citizens. Rather, it is a bill that deals principally with the acquisition of citizenship — in other words, it is a naturalization act.

Senator Finestone: Honourable senators, Senator Kinsella poses an interesting question that perhaps we could review when the bill is in committee. There are issues that go beyond citizenship, such as fraudulent application. The bill does deal with people who are stealing or making false representation and giving people false hope about coming to Canada. It addresses these unpleasant, unethical acts.

However, in general, I would say that the bill does look to our citizens of tomorrow. Is it a matter of nomenclature, naturalization versus citizenship? I suppose it is an argument one could easily hold.

Senator Kinsella: The honourable senator, in her speech, said that the purpose of the bill was to "modernize Canadian citizenship." That phrase caught my attention. Therefore, I wanted to look to where in the bill it speaks to the 30 million Canadian citizens and not simply those who are seeking to acquire Canadian citizenship. I have had difficulty in finding that clause. Why does the bill not address what might be referred to as active citizenship, the citizenship that we all enjoy? The honourable senator did draw our attention to rights and obligations, the heading on page 6 of the bill. There is just one paragraph under that heading, which is clause 12.

Is it not true that only three of the rights in the Canadian Charter of Rights and Freedoms are predicated on Canadian citizenship? Canadian citizens have the right to vote. Canadian citizens have the right to leave and re-enter Canada. Canadian citizens have certain linguistic minority education rights. All of the other rights in the Charter are available to everyone. If there are only three rights in the Charter that speak directly to citizenship and if we are to look in a citizenship act, so-called, for something that speaks of the richness of our Canadian citizenship, we do not find very much in the bill before us. Does Senator Finestone agree that this is something the committee might wish to explore and that, as we debate the principle of the bill, we ought to focus upon?

Senator Finestone: As a matter of fact, honourable senators, I did think about this issue. Where are the concepts and fundamental values that we have as Canadians and that we share together, such as fairness, sincerity, honesty, respect and equality among others? The principle that is articulated in clause 12 is that of equality among citizens. I would say to the honourable

senator that this is pretty consistent with other laws in Canada, such as our Canadian Charter of Rights and Freedoms, and with our international commitments.

I consider one of the most substantive changes in this legislation to be the residency clause. If someone wants a reflection of the values that one has as a Canadian, I would suggest that that person live for 1,000 days in this wondrous land and in their community, doing business or sending their children to school, whatever the case may be. One would be hard pressed to find anywhere else the daily living style that is found in this country.

Part of the answer to the honourable senator's question is what is understood in clause 12, the Canadian Charter and the importance of the residency clause. As a matter of fact, even the commissioners have a responsibility to get out into the community. Citizenship is not something that one just takes for granted and that just happens because we were born. Citizenship is a growing, learning experience. Canadians sometimes have to be reminded about the civility of living in close collaboration with neighbours and respecting differences. I would also suggest that those commissioners who get out there can reinforce the value of our multicultural and very diverse society.

Further to that, the oath is comfortable. It is easy to repeat. It takes into consideration that those who come to this land may not all have full competence in either English or French, our two official languages. As well, the bill includes for the first time an oath to Canada, a sense of responsibility for Canada, and it asks for allegiance to Canada, something that was not required previously.

Honourable senators, if we put all those factors together, whether this is a naturalization process or a citizenship process, they all add up to how we evolve and grow as a country.

On motion of Senator DeWare, for Senator Andreychuk, debate adjourned.

• (1510)

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, before we proceed with the next item, I should like to request an opportunity to deal with a bill which presents a problem for us. I should like to have an opportunity to put the issue forward in order that I might take questions or so that it might be discussed before I move a motion which would not be debatable in terms of my request for leave, but only debatable if leave is granted. Thus, I should like an opportunity to deal with this on an advance basis. I am requesting leave to do so.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Hays: Honourable senators, there is a problem with Bill C-12, as given first reading in this place on June 1, 2000.

The problem is that the version of the bill that was given first reading which I will call the as-passed version, does not include an amendment to clause 2(3) that was adopted by the House of Commons at report stage. Accordingly, there are serious problems to be considered by us in terms of what we should do. In a moment, I will ask leave to put a motion that would involve withdrawal of the bill.

I acknowledge, however, that precisely the same thing happened on May 11 of this year when I rose to ask for leave to withdraw Bill C-22, which is still before a committee of this house.

I am not sure why we are, for the second time, faced with this situation. Under our rules we must follow a very awkward process in that we must ask for the bill to be withdrawn in a formal way, that is, by motion. From memory, such a motion requires five days' notice and the support of two-thirds of the majority of this house to pass.

Another option would be to leave it on the Order Paper and try to refer it to committee. However, that, too, is problematic because the referred bill would not be the same bill that was passed by the other place. We would know what the difference was, and so on, but as I take direction sometimes from people who are expert in this area, I am aware that it would present a very difficult problem.

Accordingly, as Deputy Leader of the Government, I am left with the situation of having to look to honourable senators for their assistance in remedying this dilemma. I would propose to move a motion that would require unanimous consent to withdraw the bill.

At this point, however, I shall take my seat and invite questions or comments.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I thank the Honourable Senator Hays for raising the matter before the Senate. The process allows us an opportunity to see what we will do with it within the parameters of motions, et cetera. Thus, it is very helpful and a good procedure to utilize.

My understanding is that on Thursday, June 1, the message was received from the House of Commons, with Bill C-12, to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other acts and for which they desire the concurrence of the Senate. The bill was read a first time. The Senate then ordered that second reading would take place two days hence. My understanding is that that is the bill that is before us.

As Senator Hays rightly pointed out, we had a similar problem three weeks ago. We on this side, said, "Well, it was a typographical error, or whatever," and were very accommodating. Then, within three weeks we are in the same situation but on a major bill, and this bill is a major piece of work dealing with technical amendments. I find it less understandable in the situation with this bill because it received several amendments in the other place — and I will not go into detail concerning the amendments — and care should have been taken in putting together the amendments they adopted. Now we have their bill, the bill that they should have sent to us. Instead, they sent us a bill with only some amendments in it.

It seems to me that this case is significantly more serious than the other case. We could consider adopting the bill without the amendment, but perhaps the better course of action would be to follow the procedure that Senator Hays has outlined, namely, that there would be a motion to remove the bill from the Order Paper. That requires a vote.

I would like to have some clarification from the Speaker as to the size of the majority that would be necessary in order for that vote to carry. Is it two-thirds or is it a simple majority? Let us clear up that matter as well.

Other honourable senators may have something else to contribute to this debate. We must look at this case with more sobriety, given the seriousness of the bill and the fact that within three weeks the same thing has happened again.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I will not repeat what Senator Kinsella has already said. I do not know if it is because the parliamentary session is drawing to a close, but it would appear that the House of Commons is neglecting its presentations to the Senate.

Since the rules are clear and unanimous consent is required, it is my impression that some may say no if you ask now, and I might be one of them.

• (1520)

Senator Kinsella has asked the Speaker whether two-thirds would be required, or a simple majority.

[English]

Maybe we would be unanimous in saying that suspending until tomorrow, 24 hours, would not hurt anyone. We can come back tomorrow afternoon at the same level. During that time, all of those who want to can reflect and reach for their books. It would be a chance for Her Honour, the Speaker *pro tempore*, along with her able assistants, to look into the proposals and the issue raised by Senator Kinsella.

I never hesitate to say that 24 hours of reflection has ever hurt anyone. During that time, Senator Hays, as our representative, could remind the other chamber that this is perhaps not the second time but the third time. Some people say that, in Bill C-20, the drafters forgot just one word — “Senate.” I do not know if that was a mistake or if it was done intentionally. It could be a mistake. People are so arrogant sometimes, so proud, that they do not acknowledge their mistakes.

Having said that and without entering into the meat of the debate, I kindly suggest that if the opposition and the government were to agree, 24 hours could be given as a time of reflection, or perhaps we could come back to this matter on Thursday. That gives plentiful time, and I would not object to that time for reflection. I can only speak for myself. In the spirit of cooperation, which we see more often in the Senate than in the other chamber, the Deputy Leader of the Government might see some agreement.

Senator Hays: Honourable senators, it is not appropriate for me to move the motion. I have listened to the Deputy Leader of the Opposition, who has indicated that he is not convinced we should follow this procedure, at least not at this point in time.

Honourable senators, I know that I am in the hands of every single senator here because I cannot do anything without leave. “Leave” means no dissenting voice.

I will sum up from our point of view. Of course, we would prefer to proceed today. Senator Prud’homme’s suggestion is a good one in that it gives us an opportunity to reflect upon what has happened. Senator Kinsella has observed that this omission is a serious mistake. I think they are all serious mistakes. When I think about the possibility of proceeding with a bill that is not the same here as in the other place, it does not matter about the substance of the difference. This is still a very serious matter because we could conceivably have two laws if this bill went right through to third reading and passage without being caught.

Accordingly, we do rely on bills to be accurate. In considering a bill, we rely exactly on what was passed in the other place.

Honourable senators, I agree. I cannot move a notice of motion today in any event because that item on the Order Paper has passed. I would agree that this matter should stand for the day.

I will take advantage, as suggested by Senator Prud’homme, of meeting with my counterpart. I have noted his suggestions. I will come forward tomorrow with the appropriate action, taking into consideration the result of our discussion.

Hon. Jean-Robert Gauthier: Honourable senators, I would ask the Deputy Leader of the Government if, during that 24 hours, he could find out who is responsible for this omission in the other place. Perhaps we could have a letter of apology. For once, the House of Commons does not stand out to be a perfect place. It is not very difficult for them to admit a mistake once, but twice? I am a little worried that there is some sloppiness over there.

[Senator Prud’homme]

Senator Hays: Honourable senators, I will do my best to get a response to Senator Gauthier’s query.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that this matter stand until the next sitting of the Senate?

Hon. Senators: Agreed.

COMPETITION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-276, to amend the Competition Act (negative option marketing).—(*Honourable Senator Eyton*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I request that the adjournment of the debate on Bill C-276 stand in the name of Honourable Senator Andreychuk.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that this motion stand in the name of Senator Andreychuk?

Hon. Senators: Agreed.

On motion of Senator Kinsella, for Senator Andreychuk, debate adjourned.

• (1530)

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY
SENTENCING—DEBATE ADJOURNED

Hon. Lorna Milne, pursuant to notice of May 11, 2000, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine issues relating to sentencing in Canada; and

That the Committee report to the Senate no later than June 21, 2001.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Explain!

Senator Milne: Honourable senators, I should like to explain a little of what has been occurring in the committee.

On May 11, 2000, I gave notice of motion that we be authorized to examine the issues related to sentencing in Canada, and that the committee report to the Senate no later than June 21, 2001.

During its hearings on Bill C-202, to amend the Criminal Code (flight), the committee addressed serious concerns about the way in which legislation fits within the structure of criminal sentencing in Canada. There was a realization that the committee often receives legislation that provides for certain punishments or sentences, but we could benefit by developing a stronger understanding of the general sentencing structure in Canada because it has been changing. Such an understanding would allow us to appreciate more clearly how the sentencing provisions in a particular piece of legislation compare with those in other laws. Senators on the committee felt that it was important to carefully examine the issue of sentencing in order to avoid reviewing future legislation without understanding its practical impact on the citizens of Canada.

The intention of the committee is to develop a comprehensive understanding of what types and lengths of sentences are presently included in the Criminal Code of Canada and for what specific types of crimes. It is really intended for the internal use and guidance of the committee when considering new legislation. It may even be of use to the Minister of Justice and department officials when drafting new Criminal Code legislation.

I can assure those who are concerned with such things that it is our present intention that it be an in-house study and also that it will not cost the Senate anything. Of course, we are a busy committee, and currently we do have government legislation, as well as private legislation, to review.

The committee wants to assure the Senate that its study will not interfere with its primary function of reviewing legislation. Indeed, I will go so far as to say that the proposed study would directly complement our legislative work. By developing a stronger understanding of Canada's sentencing system and forming ideas as to how it should operate, we will be better placed to ensure that future legislation that comes before us provides for sentences that are generally consistent with the sentencing regime and are neither excessively lenient nor excessively harsh.

Honourable senators, I think that this will be a useful study, and I urge you to support the committee by authorizing it to undertake this work.

On motion of Senator Kinsella, debate adjourned.

DEVELOPMENTS RESPECTING EUTHANASIA AND ASSISTED SUICIDE

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY
COMMITTEE—DEBATE ADJOURNED

Leave having been given to revert to Reports of Committees:

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Social, Affairs, Science and Technology entitled: "Quality End-of-Life Care: The Right of Every Canadian," tabled in the Senate earlier this day.

Hon. Sharon Carstairs moved the adoption of the report.

She said: I thank honourable senators for giving me the opportunity to speak to this matter at the end of this day, even though I was not here at the moment that it was called on the Order Paper. However, I was attending a press conference, and we had excellent attendance to learn what our committee has stated about the need for quality end-of-life care in Canada.

Honourable senators, our first and most important recommendation is that Canada needs a national strategy in order to ensure quality end-of-life care for every one of our citizens. Canadians no longer want governments to squabble, to be engaged in jurisdictional disputes between the provinces, the territories and the federal government. They want every single Canadian dying in this country to be ensured of quality end-of-life care.

The need for this national strategy is the first of our 14 recommendations in the report. Canadians want the federal government to take a significant leadership role.

Honourable senators, it is important to remember that less than 10 per cent of dying Canadians have access to quality end-of-life care, and this is simply not good enough. Those who do receive good palliative care in Canada are generally suffering from cancer, but what of those who are dealing with respiratory failure and those who have multiple sclerosis or ALS? What of those who have various other lung diseases? Why is palliative care not available to them? It is not available to them because governments in this country have not put sufficient resources into the hands of the health care community in order to provide this care.

The main task of the subcommittee, which was given your approval in February of this year, was to update the progress of the implementation of the unanimous recommendations of 1995 in our report then entitled "Of Life and Death." Regrettably, I am very sorry to have to tell you today that there has been virtually no — and that is "no" — progress made in implementing these unanimous recommendations.

Honourable senators, Canadians are still dying in needless pain. Canadians are still dying without the emotional and spiritual support that they require at that time. Their families are not receiving the kind of support that they should be getting during this difficult passage.

Some progress has been made in very limited areas. I would note, in particular, the area of advanced directives, since they are now in force and effect in almost every province. However, the 1995 unanimous recommendations have been allowed to sit on a shelf and get dusty.

Indeed, witnesses who appeared before our committee indicated that in some areas of this country, the palliative care programs have actually been cut back. With the unfortunate cutbacks in health care generally, palliative care units have also suffered cutbacks. As so many of them were so very small to begin with, it meant that there were cuts to the bone of the entire structure of the delivery of that care.

Honourable senators, the subcommittee recommends that the federal government, in collaboration with the provinces, develop a five-year plan for the implementation of the 1995 unanimous recommendations, and that the federal government prepare an annual report on the progress of this implementation.

Many witnesses before the subcommittee called for an integrated national strategy on end-of-life care, which would include a set of widely accepted core principles. However, there are things that the federal government can do on its own initiative. For example, in the committee report, we call for the federal government to implement income security and job protection for family members who care for the dying. We know that there are massive surpluses in the EI program at the present moment. We have, over the years, moved to provide parental leave. We have moved to provide maternal leave. Why can we not provide the same kind of leave for individuals who are looking after the ones they care for the most, family members who are dying?

We also know that one of the tragedies in our system right now is that in some provinces there is no pharmacare coverage for people who are dying. This means that families will sometimes take their loved one home to die in the home environment, and that they will have to pay for the drugs that were available at no cost if they had allowed their loved one to die within a hospital setting. Surely that is wrong. Surely that is something that we can address.

• (1540)

Equipment costs are sometimes borne in individual provinces by provincial governments; in other places they are not. The federal government has called for the provinces to work with them to establish a national home care program. I think all of us in our committee believe that those programs should be delivered by the provinces, but that is no reason why the federal government cannot provide the dollars for those programs.

Furthermore, the subcommittee recommends that the federal government, in collaboration with the provinces, establish those home care and pharmacare programs necessary for the dying.

Not too recently, in this chamber, I stood and moved the passage of Bill C-13, which established the Canadian Institutes for Health Research to replace the old Medical Research Council. There will be 12 to 15 of these research centres established in Canada. Why can one of them not be directed toward palliative care and care of the dying in Canada? Your subcommittee has recommended that one of these new institutes be established to do just that.

[Senator Carstairs]

Honourable senators, when we reported in 1995, we reported that very few medical schools were training their soon-to-be physicians in pain management. Well, they are still not training their physicians in pain management. If a physician gets an hour or two in their four-year training in pain management, that medical school is doing well because some do not offer it at all.

In this country, there are still no residencies in palliative care. When they appeared before our committee, the College of Physicians and Surgeons indicated that they wished such training to begin. They had tried to establish a program. In fact, four out of 16 medical schools have indicated that they would like to begin that training of residents in the field of palliative medicine. However, neither the provinces nor the federal government have provided the dollars necessary to pay those resident physicians who make, on average, \$35,000 a year. Again, it is a question of dollars. The money has simply not been there.

Honourable senators, it was an honour for me to chair this subcommittee. I should like to conclude by expressing my personal thanks to the senators who sat on the committee with me. Senator Beaudoin, who was our deputy chair and who was there all the time, even when the meetings were very early. Senator Beaudoin really does not like early morning meetings, but he came out and participated, like a good soldier. Senator Corbin was with us through each and every one of the presentations we received. Senator Keon and Senator Pépin, who could not join us today, were also there, participating actively in our deliberations. I should like to particularly commend Senator Roche. Senator Roche, as an independent senator, was not technically allowed to be a member of our committee. Well, technical or not, Senator Roche was an active, participating member of our committee. Although he could not be listed in the list of members, we listed him right below that list to indicate how very much we valued his participation in our committee.

Honourable senators, I wish to thank the Senate for allowing this subcommittee to conduct this valuable work. We have, once again, sent out a challenge to the federal government and, hopefully, to the provincial and territorial governments, to respond to the very genuine needs of those dying in Canada. As I pointed out to the one reporter who asked me, I do so now to every one of you: There are many demands on the health care system. There are line-ups at emergency rooms, there are more people wanting MRIs and CT scans. You may not need a MRI or a CT scan, but you will die. I hope that when you do, you do so with quality end-of-life care.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to follow on what Senator Carstairs has just said. The mandate of our subcommittee was to update the progress on implementation of the unanimous recommendations of our 1995 report. You will recall that, in 1995, we had examined a large number of issues relating to life and death, and were unanimous on a good number of recommendations.

This afternoon, we released our report, which comprises two parts, a list of recommendations and three appendixes. The first part of the report is entitled "The Need for a National Strategy — Our Priority." It addresses our vision of end-of-life care, that is quality end-of-life care, improved end-of-life care and the federal role in end-of-life care.

In the second part, we report on the progress made on the unanimous 1995 recommendations made in our 1995 report in the following areas: palliative care, education and training, research, guidelines and standards, advance directives and legislative initiatives.

Essentially, we want better cooperation between the federal government and the provinces in order to improve the quality of end-of-life care. We have also added, in order to facilitate consultation, part of the glossary contained in our 1995 report, that is, the definitions that relate to the report we are tabling today. I still say that a glossary is one of the most important things. If we define the terms at the start, discussions will be shorter. This is very advantageous.

We are making 14 recommendations, but I will quote only five here: that the federal government, in collaboration with the provinces, develop a national strategy for end-of-life care; that the federal government immediately assess the need for home care and pharmacare for the dying and establish, in collaboration with the provinces, the funding required for these programs; that the federal Minister of Health discuss the establishment of a federal, provincial, and territorial strategy on end-of-life care with provincial and territorial counterparts at the next meeting of the Ministers of Health; that the federal Minister of Health discuss with provincial and territorial counterparts appropriate measures for funding of end-of-life initiatives; and that the federal government, in collaboration with the provinces, develop a five-year plan for implementing the 1995 unanimous recommendations.

We paid particular attention to observing federal and provincial jurisdictions here, because health care is a provincial and a federal matter, with each having its respective area. I repeat in closing that this report is unanimous. It is very important. Naturally, we hope that the Senate will quickly pass it and that we may proceed to improve the quality of end-of-life care throughout Canada.

[English]

Hon. Douglas Roche: Honourable senators, the report published today, "Quality of Life Care: The Right of Every Canadian," deserves priority action by both the federal and the provincial governments because it touches upon an urgent need in Canada. People have a right to quality end-of-life care when they are dying. Yet only a small fraction of the 220,000 Canadians who die each year have access to good palliative care programs.

• (1550)

Five years ago, the Senate committee report entitled "Of Life and Death" recommended steps to increase palliative care, pain control, sedation, withholding or withdrawing life-sustaining treatment, and advance directives, but little was done. In fact, good end-of-life care today has been compared to the luck of the draw. Therefore, a Senate subcommittee has returned to this subject and examined the unanimous recommendations of five years ago, and the message today is even stronger than before.

The subcommittee found no evidence of dedicated public funding for palliative care services aimed at alleviating the physical, emotional, psycho-social or spiritual suffering of the dying. What palliative care there is today is concentrated on cancer patients, who certainly need it, but only a quarter of deaths in Canada are from cancer. There are high levels of suffering also from chronic obstructive pulmonary disease, AIDS, advanced renal disease and advanced coronary artery disease.

Moreover, the number of institutional palliative care beds has been cut as a result of health care restructuring and cuts in government health budgets. Palliative care costs, in human as well as financial terms, are increasingly assumed by families in home care programs. This has occurred at the very time when the population is aging and the need is increasing.

There is no effective national strategy within Health Canada, little preparation of doctors in medical schools to deal with the dying, and inadequate research into the alleviation of pain. The situation is, as our report says, "inexcusable."

Thus, our report calls for the federal government to take a leadership role in developing a five-year national strategy so that each Canadian would be able to access skilled, compassionate and respectful end-of-life care.

Honourable senators, I hope the report serves as a wake-up call to the federal and provincial governments to give this current need in Canada the attention it deserves.

The subcommittee that authored the report, after hearing from 51 witnesses over a period of four months, has tried to help governments maintain a sharp focus on palliative care needs by staying away from the subjects of euthanasia and assisted suicide. In the 1995 report, the Senate committee blended the unanimous recommendations concerning palliative care with divided views on the efficacy of euthanasia and assisted suicide.

If, in 1995, the focus was not clear on what the Senate committee was talking about, the focus is definitely clear today. With one voice, the 2000 Senate subcommittee is saying that governments must repair the shocking and shameful neglect of the high number of Canadians who need special, compassionate, respectful care as they approach the end of their lives.

Inevitably, as early press reports showed, and even as we saw in the press conference a few moments ago, end-of-life issues do get mixed up with euthanasia and assisted suicide.

Let us be clear on this subject, honourable senators. Euthanasia and assisted suicide are illegal in Canada and should stay that way. We do not have the right to intentionally kill someone, no matter how compassionate the nature of the motivation. Euthanasia and assisted suicide are incompatible with the dignity of each human life, but that very dignity becomes a principal reason why the dying must be accorded the greatest possible care for control and relief of suffering.

Sometimes it is clear that maintaining life-sustaining procedures should not be done because this imposes burdens out of proportion with the benefits to be gained. Good palliative care recognizes that withdrawal of treatment is moral, legal and sometimes advisable, but that is entirely different from taking a step to deliberately end a life.

Sickness, suffering and dying are an inevitable part of human experience. People should be helped through this experience and that is what the provision of good palliative care does.

Yet, even with this emphasis on the need of palliative care for its own sake, we will be confronted by those who demand that the law be changed to permit euthanasia or assisted suicide because some people are suffering excruciating pain. In fact, the cases of people trying to take their own lives or deliberately ending the life of an extremely ill person are used by some to justify a change in the Criminal Code.

Will the provision of widespread palliative care end the calls by some for legalized euthanasia and assisted suicide? Probably not. For those who do not affirm the highest principles of the right to life, recourse to euthanasia and assisted suicide for the terminally ill will likely continue to be attractive.

However, the provision of widespread palliative care is likely to reduce the impression that elective death is necessary to ensure adequate relief of suffering. Research has linked the depression that often occurs with the terminally ill to a desire to hasten death. If there is an absence of competent and compassionate care, the desperation for premature death can increase.

Advocates for euthanasia and assisted suicide make the argument that patients experiencing unbearable suffering should have these options, but this argument can be answered when the pain and the suffering of terminally ill patients are relieved by skilled and effective palliative care, which addresses the physical and psycho-spiritual problems of patients and families. As the *Journal of Palliative Care* points out, further funding to provide reasonable access to expert care would minimize the fears of patients and families regarding physical pain and psychological distress in the setting of a terminal illness. In other words, euthanasia and assisted suicide should never be a substitute for good palliative care.

Also, the *American Journal of Psychiatry* has reported that the desire for death in terminally ill patients is closely associated with clinical depression — a potentially treatable condition — and can also decrease over time. The Canadian Bioethics Society has taken this study a step further and, in a workshop at their 1999 conference, concluded that the desire for euthanasia and

[Senator Roche]

assisted suicide originates in a process of deliberation influenced by disintegration and loss of community, resulting in the loss of self. In this context, euthanasia and assisted suicide represent means of limiting the loss of self.

Honourable senators, what is at the root of such a paucity of services by governments for the dying? Perhaps it is the denial of death that permeates our culture. Doctors are trained to cure and make people better. Technology continually provides new means to prolong life. This denial results in inadequate preparations by the living for the inevitability of death and seems to excuse governments from allocating sufficient resources to deal compassionately with the second most important moment in a person's life — death. Inadequate distribution of resources for palliative care appears to be connected to the pervasive denial of death.

Social justice demands governments' priority attention to palliative care. As Dr. Elizabeth Latimer, an expert in palliative care, told the subcommittee:

I find it almost immoral for us to talk about taking people's lives when we have not done the harder task, which is to have palliative services in place for people.

Honourable senators, let the Senate quickly adopt this report so that there will be no delay in the government getting our unanimous message that urgent steps be taken to develop a comprehensive plan to assist dying Canadians across our country. This is the moral and the right thing to do in addressing a problem that cuts to the heart of the daily existence of many Canadians who are faced, either in their own lives or those of their families, with the overwhelming problems of preparing for death. The government must respond to growing ethical calls for health policies to promote equality of access to services, compassion, effectiveness, and quality in meeting the needs of the dying.

Honourable senators, we must institute effective palliative care programs to promote care in dying. Not only will this step enrich our own society, it will give the global community a model of health care based on the values of human rights that the people of Canada want to promote.

On motion of Senator Corbin, debate adjourned.

[Translation]

• (1600)

ADJOURNMENT

Leave having been given to revert to Notices of Government Motions:

Hon. Léonce Mercier: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h),

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 7, 2000, at 1:30 p.m.;

That at 3:30 p.m. tomorrow, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate;

That should a division be deferred until 5:30 p.m. tomorrow, the Speaker shall interrupt the proceedings at 3:30 p.m. to suspend the sitting until 5:30 p.m. for the taking of the deferred division; and

That all matters on the Orders of the Day and on the Notice Paper, which have not been reached, shall retain their position.

Motion agreed to.

The Senate adjourned until Wednesday, June 7, 2000, at 1:30 p.m.

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CANADA

Debates of the Senate

2nd SESSION

• 36th PARLIAMENT

• VOLUME 138

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 7, 2000

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Wednesday, June 7, 2000

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATOR'S STATEMENT

CATHOLIC HEALTH ASSOCIATION OF CANADA

STATEMENT ON SOCIAL AFFAIRS, SCIENCE AND
TECHNOLOGY REPORT "QUALITY END-OF-LIFE CARE:
THE RIGHT OF EVERY CANADIAN"

Hon. Douglas Roche: Honourable senators, yesterday Senator Carstairs tabled a report entitled "Quality End-of-Life Care: The Right of Every Canadian" and today the Catholic Health Association of Canada issued a statement with regard to it.

The Catholic Health Association of Canada is a national Christian association supportive of health care in the tradition of the Roman Catholic Church. As the national voice for Catholic health care, the CHAC acts to promote health in all its aspects — physical, emotional, spiritual and social. Its membership includes eight provincial associations, 34 sponsors and owners of health care organizations, 127 hospitals and homes, health care professionals, and affiliated organizations and individuals.

Honourable senators, with that background, I will now tell you what the Catholic Health Association of Canada said about the report. The statement issued by the chairperson, Sister Annette Noël, reads:

We are pleased to see that the Subcommittee report reflects many of the recommendations we presented. We commend in particular the emphasis the report gives to the inherent dignity and worth of the individual as a basis for end-of-life care. The inherent worth and dignity of every individual is the fundamental value that should underlie our health care system.

The press release goes on to make several complimentary and entirely supportive comments about the report tabled yesterday. This is a great credit to Senator Carstairs, who led the committee and presented such an outstanding report, which was widely commented upon in the news media across Canada today.

This report commends itself to immediate adoption by the Senate so that the Government of Canada will get the message conveyed by the report, which said unanimously that palliative care resources and activities must be greatly strengthened on behalf of all Canadians.

ROUTINE PROCEEDINGS

CANADA LABOUR CODE

BILL TO AMEND—NOTICE OF MOTION TO
DECLARE NULL AND VOID

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I wish to return to a discussion we began yesterday on Bill C-12. Yesterday, Senator Prud'homme suggested that we wait a day to see whether the government and the opposition could reach agreement on how to deal with this bill.

I suggest that I present a notice of motion today to suspend rule 63, which involves the process for withdrawing an order of the Senate and that we consider the first reading given to Bill C-12 on June 1 null and void. Furthermore, I suggest that we refer this matter to the Standing Committee on Privileges, Standing Rules and Orders for the purpose of considering inclusion in our rules a procedure whereby this type of problem could be solved.

Perhaps Erskine May's *Parliamentary Practice*, Twenty-second Edition, page 545, could be considered in this context. It states there:

If a bill is carried to the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified.

• (1340)

According to the footnote in Erskine May, the circumstance used as a precedent originated in the House of Lords, which had sent a bill to the House of Commons with an error in it, and the House of Commons instituted this process.

We are in the hands of honourable senators in terms of proceeding with leave. This is a way of proceeding without leave, while acknowledging that this problem has occurred in the recent past and that we must be conscious of that and have a way of dealing with it. I suggest that we refer the matter to the Rules Committee.

I shall now take my seat and request a comment.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, a number of questions must be answered. First and foremost, this house has received a message from the other place with a bill. I am curious to find out how we, in this house, know that the bill that has been sent to us is nothing more than the bill that the House passed and sent to us. This is to assume that private communications occur.

All we can deal with is what is sent to this house from the other place by way of formal message. Thus, the bill that is before us is the bill that came with the message. I am not sure

how we have apprehended that the message did not contain the bill. How were we told? How were we informed that the bill was sent incorrectly or in error? What is the means by which the message that has been received is apprehended to be in error? Perhaps the deputy leader could explain.

Senator Hays: I shall give the question the best answer I can.

This matter, honourable senators, was drawn to my attention by the Table officer, namely, the deputy clerk. I have asked that question of the Table and have been advised that the error was discovered by the responsible ministry when reviewing the document and, I assume, communicated to the Table in the other place. Their way of dealing with the matter was to send us a reprint of Bill C-12. We now have two copies of the bill. One is the bill, which is titled "as passed," or the terminology is "the parchment" that we received from the other place, to which we gave first reading. We received a reprint of that with a correction, which I described in the record yesterday. It is found at clause 3 of the bill and concerns the deletion, but it changes a definition. I do not see this as a typographical error. There are ways of dealing with that in omnibus bills, and so on. I do not consider this to be a typographical error because it involves several words. It is actually the text of an amendment that was made at report stage in the other place.

That is how the two bills come to us, Senator Kinsella.

Senator Kinsella: Honourable senators, if the means by which the two Houses of Parliament communicate with each other is by message, has the Deputy Leader of the Government considered whether it would be proper for a formal message to be sent to the House of Commons explaining that we have apprehended this message, by whatever means we have done so, and that we will return the bill to them? This situation is new to me and I want to learn.

Senator Hays: I am happy to instruct, but it is as new to me as it is to all senators.

I have spoken about that and considered it and sought advice on the matter. The answer I will give — and it may or may not be acceptable — is that this is not our problem. This is the problem of the House of Commons. If there is any message to be sent, one would expect that they would send it to us. However, they have not sent us a message. We could seek one, though. I guess the message would be something to which all senators would have to agree. Of course, they are busy and do not have this situation on their minds, at least at the present time. Nothing that we have done is at issue here. We are trying to respond to a circumstance in which we find ourselves, namely, where we have two bills, one sent to us as the correct version of the bill and one sent to us that we believe to be incorrect because we are told it is incorrect.

As a way of dealing with this matter, honourable senators, I suggest that we declare null and void the procedure whereby we gave first reading to the bill, in which case the Order Paper is open to receive the correct bill. It is a matter of concern for us, and that is why I have included in the notice of motion a

reference of the matter to our Standing Committee on Privileges, Standing Rules and Orders. I am suggesting in the notice of motion that this be a matter for which our rules provide.

The Hon. the Speaker *pro tempore*: Honourable senators, before we continue the discussion, for the record, I should like all honourable senators to know that we have received two copies of Bill C-12, both signed by the Clerk of the House of Commons. No explanation was included with the amendment as to why one copy is different from the other.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, given what we have just heard, I think my question has been partly answered. How can we substitute one bill for another without receiving the same message from the House of Commons? I think the House of Commons should ask for the wrong bill to be returned to it, and then a new message should be sent to us, along with an apology for messing things up, saying, "This is what the bill should be."

Why should we correct and even cover up for the sloppiness of the other place? It is their bill. Let them send it to us in the proper manner. As Her Honour has pointed out, we have two bills with the same numbers and the same signatures. What I think I heard is which one do we pick? While the deputy leader is trying his best to have us pick the right one, I think it is for the House of Commons to direct us and not the Deputy Leader of the Government.

Hon. Lowell Murray: Honourable senators, there is another option. Has the deputy leader had advice on what would be the effect if we pass the first bill?

Senator Hays: Honourable senators, thinking about the consequence of that option has prompted an attempt to resolve the matter in the way that I have suggested.

Let me make a final attempt and give the notice of motion. We will then have an opportunity to discuss the issue further and take other steps, if that is deemed to be prudent.

The one element of our society that should not suffer are those who would benefit from what this bill addresses — namely, amendments to the Canada Labour Code dealing with health and safety. I believe Bill C-12 passed with support all around in the other place. It is important — and do not ask me why because I am not prepared today to give the full reason for it — that the bill be dealt with expeditiously for reasons of serving our public, who wish to see these changes to health and safety regulations made. I think all parties would agree to that. We may have differences between the other place and this place, and perhaps delays are acceptable. In order to benefit those people who will be favourably treated as a result of these amendments, we should not delay. Perhaps we are not at that stage yet. I will discuss that with my counterpart.

• (1350)

Honourable senators, I give notice that, tomorrow, June 8, I will move:

That, notwithstanding Rules 63(1) and 63(2), the proceedings on Bill C-12, An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts, which took place on Thursday, June 1, 2000, be declared null and void, and

That the Standing Committee on Privileges, Standing Rules and Orders review and make recommendations concerning the procedure described in Erskine May's *Parliamentary Practice*, Twenty-second Edition, at p. 545, as follows: "If a bill is carried to the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified."

Hon. Marcel Prud'homme: Honourable senators, yesterday I humbly made the suggestion that 24 hours' reflection could be helpful. I see that it was not only helpful but that we may need to reflect even further.

I sat for years in the other chamber. You all know that I still keep close track of what is going on over there. For instance, I kept telling you that there were more people attending on Bill C-20 in the Senate than in the entire House of Commons during the day. It is to the credit of both sides of the Senate because it shows that although we are unknown, we are still there, following what they are doing.

I asked some members yesterday about our concern. One of them said to me, "What bill again? Well, I did not pay attention. I just voted, as is customary. When the whip called for the vote, I voted for it, but I had not read the bill."

Having sat in the other place, I can humbly say that that could have happened to me, too. Sometimes we do not have time to read big bills. That shows one thing. In the secrecy of the heart — a saying they use in the Vatican — the House of Commons believes that the Senate can correct their mistakes. They will not admit it, and that is probably why they have sent two bills, hoping that we would solve the problem in an intelligent way.

I am not in disagreement. I will be absent tomorrow because I am attending the unveiling of a statue of Jean Lesage in Quebec City. I was with him in 1960. I will not be here for the end of this debate. If I were to participate tomorrow or Friday or next week, I would say that perhaps the time has come to graciously — and I say that positively — return the bloody thing to the other place, ask them to make up their minds, and when they know exactly what they want the Senate to do, they can send us the appropriate bill, signed by the right person.

Lately, the House of Commons has tried, more and more, to assert itself against the Senate. I think the time has come for us to respond, without aggression, rudeness or stupidity, but with elegance, to act as senators should act, by graciously returning the bill, telling them they are wrong and asking them to correct their mistake and, at the same time, to ensure that the public is aware. Then we will act accordingly when the bill is returned.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, I must come to the defence of the person responsible for this error. This is not a political matter, but rather an administrative error which we must not turn into a political debate. Let us correct this error without blaming the honourable members or the House of Commons. There is no reason to cast stones at them, for we, too, can make mistakes.

BUDGET IMPLEMENTATION BILL, 2000

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-32, to implement certain provisions of the budget tabled in Parliament on February 28, 2000.

Bill read first time.

[English]

Hon. Marcel Prud'homme: Honourable senators, the tabling of this document is debatable. I just want to ask: Do we have any assurance that the House of Commons members really want us to table this document?

[Translation]

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[English]

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXAMINE OPPORTUNITIES TO EXPAND ECONOMIC DEVELOPMENT OF NATIONAL PARKS IN THE NORTH

Hon. Thelma J. Chalifoux: Honourable senators, I give notice that on Thursday next, June 8, 2000, I will move:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report upon the opportunities to expand economic development, including tourism and employment, associated with national parks in northern Canada, within the parameters of existing comprehensive land claim and associated agreements with Aboriginal peoples and in accordance with the principles of the National Parks Act; and

That the Committee submit its report no later than December 15, 2000.

QUESTION PERIOD

THE CABINET

PUBLIC KNOWLEDGE OF COMMITTEES

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. Has he now discovered that the lists of cabinet committee members are indeed quite public documents and that they are to be found in the *Gazette*? Indeed, they are put there and maintained there for a definite reason.

Is the minister right that there are perhaps several secret cabinet committees about which the public knows nothing at all?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, there are certain standing committees of cabinet which function on an ongoing basis. Quite rightly, the membership on those committees are well known and it is public information. It is within the purview of the Prime Minister to ask certain members of his cabinet, on an ad hoc basis, to review or work on a specific task. Very often that is done without the formal creation of a committee and without any publication of the names of those who may be working on that topic.

Senator Forrestall: I gather that is the Honourable Herb Gray's committee. I assume that the Leader of the Government is familiar with its workings.

• (1400)

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— OPENNESS OF PROCUREMENT PROCESS

Hon. J. Michael Forrestall: On behalf of the government, can the minister confirm to us that when the maritime helicopter project is initiated, it will be a fair and open competition conducted in accordance with the approved statement of requirements?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, all announcements with respect to any government procurement will be made by the Minister of National Defence at the appropriate time. The details of those procurement announcements are, of course, left with him. I am confident that any process he initiates will be fair.

REPLACEMENT OF SEA KING HELICOPTERS—POSSIBILITY OF IMMINENT ANNOUNCEMENT ON PROCUREMENT

Hon. J. Michael Forrestall: Honourable senators, I do not know why the minister will not answer a simple question. Can we be told whether the Minister of National Defence has reserved the Charles Lynch press room for next Tuesday in order to make an announcement with regard to the initiation of the maritime helicopter project?

Hon. J. Bernard Boudreau (Leader of the Government): Perhaps I might just short-circuit this process, and instead of

asking the minister, I will consult with the honourable senator. I have no knowledge of whether that is the case but I can certainly check. As a matter of fact, I will do so, and I will let the honourable senator know.

Senator Forrestall: I know where to call to determine whether the room has been booked. Will the minister let the chamber know?

Senator Boudreau: I certainly will. I will table a written response, but I will inquire forthwith.

FUTURE OF CFB SHILO

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It relates to a question I asked last week regarding the Armed Forces base in Shilo, Manitoba, which is just east of Brandon. Is the minister aware that the federal government has spent over \$80 million in the last few years putting up new buildings and improving existing facilities there? The First Regiment of the Royal Canadian Horse Artillery is located there, and it has a new headquarters building worth about \$30 million. A \$17-million maintenance facility has just been built. They have done upgrades of \$3 million to fitness facilities. The Germans, who are leaving after years of being located on that base, are leaving behind a huge maintenance facility and yard. I am saying, in essence, that the base has been totally and completely upgraded and is deserving of remaining an active Armed Forces base, particularly when it is used as an artillery range. Manitoba does have a desert, and Shilo is located on that desert. It is great for shooting off tanks and artillery. In essence, the German army was there because the terrain was much like the Russian steppes and plains.

I would ask the minister to take that information in hand when he goes to the minister to inquire into the fate of Shilo. There have been reports that the Honourable Lloyd Axworthy is adamantly opposed to the facility remaining open. This is reported in the *Winnipeg Free Press*. I would appreciate a response.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not as familiar with the infrastructure on the base as is the honourable senator. However, it does appear that a significant infrastructure exists. I will specifically raise that issue with the Minister of National Defence and attempt to provide a response to the honourable senator.

POSSIBILITY OF CLOSING KAPYONG BASE

Hon. Terry Stratton: Honourable senators, there is another base in Manitoba called Kapyong. It is the base for the Princess Patricia's Canadian Light Infantry. They are located in the Kapyong barracks in the west end of Winnipeg, adjacent to probably some of the richest residential areas in Winnipeg. That base is quite old. It was built during and after the Second World War. As compared to the base in Shilo, it is really quite decrepit. The land that the base sits on is extremely valuable. If the Canadian government were to close that base, it could auction off the land for a great deal of money and thereby earn some money for Canadians instead of spending more in upgrading that base due to the closure of Shilo.

Hon. J. Bernard Boudreau (Leader of the Government): I ask this question by way of information so that I will have my inquiry properly framed. Is the honourable senator suggesting that if one base must be put out of commission, that it be the Kapyong base, and that the services of that base be transferred to Shilo?

Senator Stratton: Yes. The City of Winnipeg probably will shoot me for saying this, but I really believe that is the best use of that facility. As well, if the land upon which the Kapyong barracks are currently located is developed, the tax dollars flowing to the City of Winnipeg coffers would be quite substantial. Not only would the federal government raise quite a bit of money in auctioning the land, but the City of Winnipeg would have wonderful income from upscale housing in that area.

Senator Boudreau: I will forward that suggestion to the appropriate minister, along with the general inquiry as to the future of the base at Shilo.

DELAYED ANSWER TO ORAL QUESTION

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 31, 2000, by Senator Kinsella regarding the Canadian Broadcasting Corporation and the effects of proposed cuts.

CANADIAN BROADCASTING CORPORATION

EFFECT OF PROPOSED CUTS

(Response to question raised by Hon. Noël A. Kinsella on May 31, 2000)

- The CBC is an autonomous Crown corporation guaranteed journalistic, creative and programming independence under the Broadcasting Act. Accordingly, the CBC is responsible for all aspects of its operations

- CBC management is overseen by a Board of Directors comprising a cross section of Canadians. This Board sets the overall strategic direction for the CBC, within the framework created by the Broadcasting Act, and approves all major financial decisions.

- The CBC Board of Directors announced on May 29, 2000 that it had approved plans to transform CBC English television services. These plans include a new supper-hour broadcast of 30 minutes of national news and 30 minutes of local news to be produced in the regions.

- The CBC plans also feature more non-commercial, children's and youth programming and less of a commercial presence in other programming, beginning with CBC television's main news programming. Finally, the CBC's plan also committed the Corporation to ensuring more thoughtful journalism, including documentaries, investigative reporting, and public affairs.

- The May 29 announcement applies only to the CBC's English-language television services. Therefore,

these changes do not involve programming offered by the CBC's French-language television network, or its English and French radio networks, in the regions and across the country. In accordance with the Broadcasting Act, it is the CBC's responsibility to offer programming in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities.

- In public statements, the CBC President has emphasized that the Corporation's priority is to ensure taxpayers receive value for their investment in public broadcasting. He has also stressed that the Corporation must stick to its core competencies, one of which is news and information gathering.

- The federal government clearly recognizes the importance of providing the CBC with the financial stability it needs to adequately fulfil its mandate as the national public broadcaster. This responsibility, which is outlined in section 3.1 of the Broadcasting Act, includes providing programming that "informs, enlightens and entertains" and which reflects Canada and its regions.

- In the current fiscal year (2000-2001), the CBC will receive more than \$900 million in Parliamentary appropriations. The CBC also has access via independent producers to the \$200-million Canadian Television Fund. In addition, the Corporation generates more than \$400 million annually in commercial revenues, including advertising, programming sales and the operation of its specialty television services — *Newsworld* and *le Réseau de l'information*.

ORDERS OF THE DAY

DEVELOPMENTS RESPECTING EUTHANASIA AND ASSISTED SUICIDE

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Mercier, for the adoption of the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: "Quality End-of-Life Care: The Right of Every Canadian," tabled in the Senate on June 6, 2000.—(Honourable Senator Corbin).

Hon. Eymard G. Corbin: As honourable senators are aware, this exercise was a review of the unanimous recommendations of the 1995 report entitled "Of Life and Death." Those honourable senators who were here at the time will recall that the mandate of the 1995 committee had been to study the question of euthanasia and assisted suicide. In no way, shape or form did the original

mandate, as approved by the Senate, deal with palliative care. This is an issue that cropped up upon hearing witness after witness in 1995 — individuals, associations, medical professionals, including people who were either opposed or in favour of euthanasia and assisted suicide. I do not intend today to deal with euthanasia and assisted suicide. That was not the purpose of this five-year review. Thus, I will leave that aside.

• (1410)

Honourable senators, it became obvious that the committee would need to deal with palliative care. I do not believe I am boasting too much by suggesting, at one point in our study, that we would need a special chapter to deal with just that issue of service to the terminally ill in Canada because it commanded itself to our attention.

[Translation]

That was imposed upon us as an imperative. Witnesses, in fact, addressed palliative care more often than euthanasia or assisted suicide.

[English]

Some general observations regarding the context in which the issue was examined, which restricted the scope of the committee study, should be noted. In proceeding with the work — and I am talking about this round — the subcommittee did not travel outside the Senate at all. It had travelled in 1995. Institutions that deliver palliative care were not visited this time around. In fact, the hearings we just completed did not leave our committee room. The appendices to the current report contain updates on the delivery of palliative care in some of the provinces, as well as other major Canadian developments in end-of-life health care since 1995.

In my view, one point that cannot be emphasized enough in our report is the urgent necessity of undertaking more in-depth research, not only on pain-relieving medication and practices, but also on clinical depression in end-of-life situations. Depression exacerbates the suffering that dying people and their families endure. Increased clinical attention and treatment should be applied, especially in the cases of younger terminally ill persons. When I use the word “younger,” I use it in a relative sense. I am not emphasizing children particularly. I am not emphasizing young adults particularly, although I am talking about them. I am talking about beyond-middle-age terminally ill people. Much older people — ages 70, 80, 85 — do not, in most cases, need to fight with depression, although it is very much a reality for the person who is dying at age 45, 50, 55, 60 or 65, especially if that person has just retired and has a pot of money set aside. A couple may have planned to enjoy life together and travel around the world, but when a person is suddenly hit with the idea that this will not be possible, that person will start spinning into a deep depression, believe me. That depression hits many people. Unfortunately, there is not sufficient research in this field. As such, I do want to underline that need.

The treatment administered should be commensurate with the needs, of course, as distinct from the requirements of older patients. Contrary to popular myth, the depression of dying individuals is treatable and can be controlled, thus diminishing the call for euthanasia and assisted suicide.

I wish to recognize the commitment and devotion of those professional medical staff who attend to dying people. In particular, the doctors who specialize in palliative care are few and are to be found mainly in the urban context. Even though this is not the most lucrative practice in the medical profession, and considering the nature of service that must be provided, I commend those doctors who nonetheless dedicate their best efforts and knowledge to this endeavour.

In addition, I especially want to emphasize my even greater appreciation and recognition for the countless number of volunteers who support terminally ill patients, especially in small towns across Canada, in the rural context, where institutional services are not readily available or are some considerable distance away.

The 1995 mandate of the committee was to study euthanasia and assisted suicide. It became readily apparent to me that we would have to treat palliative care as a special component of the 1995 report. The entire committee endorsed this view. Out of that concern came the specific recommendations, all of them unanimous relative to palliative care; hence, our current review of examining and updating those 1995 unanimous recommendations.

Palliative care gradually, but imperatively, imposed itself upon us in 1995. After hearing witness upon witness, it had become obvious that we could not ignore this expanding field of activity, with the results well known to all senators. For that reason, I very much wanted to become a member of Senator Carstairs' subcommittee that examined the unanimous recommendations of the 1995 report, since the committee's mandate would be to review, reassess and update everything dealing with palliative care. Therefore, I want to express my heartfelt appreciation to Senator Carstairs for making it possible to place me on the subcommittee. Senator Carstairs is absent at this moment because she is attending an important announcement at the University of Ottawa regarding palliative care. I am sure she will soon have a statement to make in the Senate in that connection.

Honourable senators, I also want to say how much I enjoyed working with my committee colleagues, few though we were, in a spirit of open collaboration and total frankness. These two studies have been probably the most gratifying work that I have been privileged to perform as a senator.

The utility of the recommendations made in this report is contingent upon the goodwill and supportive attitude of governments generally, which can only be reflected through a concerted action program. Indeed, one of our recommendations requests that the government agencies, the Department of Health in particular, produce an annual report to indicate the implementation of the recommendations of 1995, as well as those of the current report.

• (1420)

I believe that the motion for the adoption of the report presented by Senator Carstairs yesterday demands that it be amended with a request that a comprehensive government response to the unanimous recommendations that it contains be delivered within six months of its adoption by the Senate, if that is indeed, as I suspect it will be, the wish of the Senate.

This amendment encapsulates the committee's vision of what needs to be done to overcome the deficits of past government inaction.

MOTION IN AMENDMENT

Hon. Eymard G. Corbin: Therefore, honourable senators, I move, seconded by the Honourable Senator Ferretti Barth:

That the motion be amended by adding the following words:

“; and

That the Senate request the Government to provide a comprehensive response to the unanimous recommendations contained in this Report within six months of the adoption of this motion.”

Thank you, honourable senators.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt this motion in amendment?

Hon. John Lynch-Staunton (Leader of the Opposition): Before carrying on this debate, we should await Senator Carstairs comments on it.

Unless another senator wishes to speak, I should like to adjourn the debate.

Senator Corbin: Honourable senators, as a matter of courtesy I spoke to Senator Carstairs about this amendment, and she endorses it.

Hon. Mabel M. DeWare: Honourable senators, I had intended to speak to the report. However, since the amendment is only asking the government to give an accounting in six months, I should like to speak to the report and the motion in amendment.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that Senator DeWare speak to both the report and the motion in amendment now?

Hon. Senators: Agreed.

Senator DeWare: Honourable senators, I begin by commending the Subcommittee to Update “Of Life and Death” for its excellent report which was tabled in this chamber yesterday. It was aptly titled, “Quality End-of-Life Care: The Right of Every Canadian.” I wish that I had had the time to sit on that subcommittee.

The report is the result of months of hard work by our colleagues Senator Carstairs and Senator Beaudoin, the chair and deputy chair of the subcommittee respectively, by the members of the subcommittee, Senator Corbin, Senator Keon and Senator Pépin, and by Senator Roche, who was a member of the subcommittee in everything but name, I understand. Other

honourable senators also contributed to the success of the subcommittee's important work and deserve our thanks.

I want to commend those honourable senators for their dedication and compassion in addressing some very critical issues that, undeniably, each and every one of us will have to deal with one day. When we leave this world, we should be able to expect the same quality of care that we received when we entered it.

I also salute their courage in reopening these issues, despite the controversy that at times has been associated with them, in particular in regard to euthanasia and assisted suicide.

I congratulate the subcommittee for bringing the importance of quality end-of-life care to the forefront of Canadian public awareness once again. I am pleased to see the media interest that the subcommittee has succeeded in generating for the need to ensure quality end-of-life care. The committee's findings and recommendations have earned front-page, national newspaper coverage, and the report was the top news story on many television and radio shows this morning.

Listening to the speeches made by the subcommittee members yesterday brought back many memories of the Special Senate Committee on Euthanasia and Assisted Suicide, of which I was a member. Despite the government's failure to act on the recommendations contained in our report, “Of Life and Death,” the subcommittee, in updating it, has confirmed that these points are just as relevant today as they were in 1995. In fact, they are even more so, as the subcommittee found that funding for palliative care services has decreased while the need for palliative care has increased.

Five years ago, our committee listened to a great deal of heart-wrenching testimony that we reflected in our recommendations. We found that most witnesses did not want to talk to us about euthanasia and assisted suicide. They were anxious, instead, to discuss, as Senator Corbin has stated today, the tremendous need that exists in Canada for good palliative care and pain management for terminally ill patients — in short, quality end-of-life care. If patients, their families and caregivers are given the support they need, then euthanasia and assisted suicide do not even have to be considered as options.

The problem that we found at that time was that quality of life had diminished to a point where patients were asking for euthanasia and assisted suicide as well as pain control. Pain management seemed to be the other serious problem at that time. We recommended strongly that there be research done on pain management. That was one of the recommendations in the 1995 report.

As was clearly noted by the subcommittee, that support must meet physical, emotional and spiritual needs, as well as provide income protection and assistance with the financial costs associated with this kind of care.

Honourable senators, I am in agreement with all of the subcommittee's recommendations, but I should like to mention just a few of them at this time.

First, I wholeheartedly support the recommendations that a national strategy for end-of-life care be developed, implemented and monitored. All Canadians will at one point face death — whatever province or region they live in, whether they be city dwellers or country folk, and regardless of their professional or personal circumstances. They must be assured they will be able to live out their last days, weeks, months or even years with dignity and as free from pain as possible. I urge the federal government to show the leadership in this area that Canadians are demanding of it.

The subcommittee also recommended that the federal government immediately assess the need for home care and pharmacare for the dying, and establish, in collaboration with the provinces, the funding required for these programs. It also called on Ottawa to immediately implement income security and job protection for family members who care for the dying. I believe that implementing these recommendations is necessary to ensure the success of any national strategy on end-of-life care. Not only would those programs enable Canadians to die in their homes, with dignity and with the comfort and support of their families, rather than in an institutional setting, the costs would likely be more than offset by the savings from reduced institutional care. Providing medication to patients who live at home would not cost the government any more than it pays to provide them now, at no charge, to patients who remain in hospital.

I should just like to mention one other thing that came out of our findings in 1995. A palliative care team does not necessarily have to be in an institution. They can be a community effort that involves family, friends and the family doctor, and, on the religious side, can also include one's priest or minister, and so on, people who will give this kind of care and support to families. It does not have to cost a great deal. Institutions must be involved at some point, but what is really needed are community teams. People can even look to service clubs and so on to help start such a project in their community.

I should like to take this opportunity to remind the government of its 1997-election promise to set up a national pharmacare program, a promise that appears to have been forgotten. Page 75 of the Liberal platform document, "Securing our Future Together," said:

The Liberal government endorses pharmacare as a long-term national objective....We will work with our provincial partners to ensure that all Canadians have access to medically necessary drugs within the public health care system.

Introducing pharmacare for terminally ill patients would be a good start.

• (1430)

I should like to say to Senator Carstairs that her subcommittee did a fine job updating "Of Life and Death." We on this side believe that its report should be adopted without delay and would

urge the federal government to implement the recommendations that it contains.

Hon. Senators: Hear, hear!

On motion of Senator Hays, for Senator Pépin, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Committee on Internal Economy, Budgets and Administration (budgets of certain Committees), presented in the Senate on June 6, 2000.—(*Honourable Senator Rompkey, P.C.*).

Hon. Bill Rompkey moved the adoption of the report.

He said: Honourable senators, this is the second tranche of the allocation of funds for committees to do their work. We had doubled, as senators will know, the amount of money available to committees because we thought that committee work is one of the strengths of the Senate and we had to support it. Therefore, twice the amount of funds was allocated to committees as compared to last year. Still, we had many more requests than we had money, and a great deal of work had to be done to keep within budget.

I should like to pay tribute to Senator Kroft and his committee and to the chairs, who put some water in their wine. We were able to work out a reasonable compromise that was within budget and that still allowed committees to do their work. There are funds left over, not a great deal, but this money will allow for further committee work. I also wish to pay tribute to the Subcommittee on Budgets.

Finally, I want to make the point that with committee work, it is not always the amount of money we spend that dictates the quality of the work. Senator Carstairs' report is a case in point. I understand that she spent only a few thousand dollars to produce that report, yet it is one of the most significant that we have produced. It has attracted a great deal of public and national attention.

I close, honourable senators, by making the point that committees can do a lot of work with minimum funding. I hope that the Senate will support the adoption of this report.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

The Senate adjourned until tomorrow at 2 p.m.

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OFFICIAL REPORT
(HANSARD)

Thursday, June 8, 2000

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Thursday, June 8, 2000

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

ROUTINE PROCEEDINGS

MODERNIZATION OF BENEFITS AND OBLIGATIONS BILL

REPORT OF COMMITTEE

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 8, 2000

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill C-23, An Act to modernize the Statutes of Canada in relation to benefits and obligations, has, in obedience to the Order of Reference of Tuesday, May 9, 2000, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MILNE
Chair

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*Translation*]

CAPE BRETON DEVELOPMENT CORPORATION DIVESTITURE AUTHORIZATION AND DISSOLUTION BILL

FIRST READING

The Hon. the Speaker *pro tempore*: informed the Senate that a message had been received from the House of Commons with Bill C-11, to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend

the Cape Breton Development Corporation Act and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[*English*]

INCOME TAX ACT EXCISE TAX ACT BUDGET IMPLEMENTATION ACT, 1999

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore*: informed the Senate that a message had been received from the House of Commons with Bill C-25, to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

• (1410)

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

REPORT OF CANADIAN DELEGATION TO MEETING
HELD FROM JANUARY 18 TO 29, 2000 TABLED

Hon. Lorna Milne: Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association which represented Canada at the meetings of the Committee on Economic Affairs and Development and the First Part of the 2000 Session of the Council of Europe Parliamentary Assembly in London, England, and Strasbourg, France, on January 18 to 29, 2000.

REPORT OF CANADIAN DELEGATION TO MEETING
HELD FROM MARCH 18 TO 25, 2000 TABLED

Hon. Lorna Milne: Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association which represented Canada at the 24th European Parliament/Canada Inter-Parliamentary meeting in Brussels, Belgium, from March 18 to 25, 2000.

REPORT OF CANADIAN DELEGATION TO MEETING HELD FROM
MARCH 29 TO 31, 2000 AND APRIL 3 TO 7, 2000 TABLED

Hon. Lorna Milne: Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association which represented Canada in the meetings of the Committee on Economic Affairs and Development and the Second Part of the 2000 Session of the Council of Europe Parliamentary Assembly in Paris, France, on March 29 to 31, 2000, and in Strasbourg, France, from April 3 to 7, 2000.

SPECIAL SENATE COMMITTEE ON BILL C-20

NOTICE OF MOTION TO AUTHORIZE SPECIAL COMMITTEE
TO MEET DURING SITTING OF THE SENATE

Hon. Joan Fraser: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Special Senate Committee on Bill C-20 have permission to sit on Monday, June 12, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Some Hon. Senators: No.

Hon. Noël A. Kinsella (Deputy Leader of the Government): This matter was not discussed in the steering committee.

The Hon. the Speaker *pro tempore*: Honourable Senator Fraser, do you wish to give notice for the next sitting?

Senator Fraser: Since the times would conflict, I will just wait upon the disposition of this matter by the leadership on the two sides of the chamber.

CENSUS RECORDS

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I rise to present a petition signed by 283 Canadians as well 6 Americans who are researching their family roots in Canada. Their petition calls upon Parliament to take whatever steps necessary to retroactively amend the confidentiality and privacy clauses of the Statistics Act since 1906 and to allow release to the public after a reasonable period of time of post-1901 census reports, starting with the 1906 census.

QUESTION PERIOD

AGRICULTURE AND AGRI-FOOD

NOVA SCOTIA—INFESTATION OF
BROWN SPRUCE LONGHORN BEETLE

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. We learned today that the brown spruce longhorn beetle infestation in Point Pleasant Park, Halifax, has now escaped the peninsula and is alive and well across the Northwest Arm. That means potential disaster. Should a change in the wind direction take place, this infestation could strike at a major core of the boreal resources of Nova Scotia. Should it do that, it is not far from New Brunswick, and then New Brunswick is not far from Quebec.

The federal government has been asked to do a few things, the first of which is to expand the quarantine zone. Has the minister been briefed and apprised of this matter. If so, is there an apparent government attitude?

Second, is there any new program or initiative that the federal government may be contemplating or have in place to assist Nova Scotia in confining the longhorn beetle infestation?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the Honourable Senator Forrestall for that question. It is a very serious issue and one that has received the very dedicated and intensive attention of all three levels of government.

I requested a full briefing on the situation and received it the day before yesterday. There is no question that the federal government, under its jurisdiction to impose the quarantine, will have the responsibility to take action to deal with the quarantined area quickly and effectively.

The department is now devoting resources to doing a complete survey of the extent of the infestation at Point Pleasant Park and clearly attempting to determine whether that infestation exists outside the park.

As the honourable senator indicated, there has been one instance of identification of the beetle not on the park premises itself but some distance from the park. That is a matter of serious concern, and the surveying will involve the surrounding forest as well. That is proceeding as quickly as possible.

Dealing with the infestation will take some planning because it is not necessarily the best thing to rush in and cut down all the infested trees as quickly as possible. There are complications in doing that. One does not wish to take any action that might provoke the spread of these beetles. I understand they have the capacity to fly some considerable distance, which is being taken into account. All of the resources are being brought to bear on this problem, and a plan is being developed in consultation with the public. They will be kept well informed at every step along the way.

It is safe to say that additional, unusual and financial resources must be brought to bear on this particular problem.

Senator Forrestall: I appreciate the minister's response. Is there a time parameter? As he has said, there is some degree of urgency with respect to this matter. Are we looking at a number of days or weeks before a determination can be made as to what action will be taken outside of the park?

Senator Boudreau: For a full survey to be done effectively, we are probably talking about a couple of weeks. In terms of the plan of action, that may or may not occur right away because there may be various options to consider.

• (1420)

For example, I understand the beetle is dormant during the winter, and this would be the preferred time to cut the trees and dispose of them. However, immediate action may not be taken in that respect. It is important to complete the intensive survey as quickly as possible. I am assured that that will be done.

Senator Forrestall: Honourable senators, can the Leader of the Government in the Senate tell us whether there is any danger to human health?

As well, are major companies that cut stumpage from provincial acres, such as Irving and Scott, involved in this undertaking?

Senator Boudreau: Honourable senators, in response to the first question, it is my information that the beetle does not pose any danger to human health.

In response to the second question, there has been contact with the private sector, although I am not certain which companies were contacted. Those private sector companies have indicated their cooperation. As a matter of fact, they are prepared to supply human and other resources to assist with the comprehensive survey that I mentioned earlier. This will ensure that we complete an assessment of the extent of the infestation and form an appropriate plan as quickly as possible.

The program is being undertaken under the auspices of the federal government, which runs the quarantine program. The federal government will have the responsibility for formulating a plan and taking action. The federal government is being assisted by the provincial government, municipal governments, and private sector companies in this effort.

Senator Forrestall: Honourable senators, which level of government takes the lead on this?

Senator Boudreau: The federal Department of Agriculture and Agri-food clearly takes the lead on this matter and will continue to do so.

ORDERS OF THE DAY

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

Hon. Lois M. Wilson: Honourable senators, Senator Andreychuk, who will speak to this bill next Tuesday, has generously allowed me to voice my concerns today.

I have concerns about Bill C-16 that I hope the appropriate Senate committee will take seriously when reviewing it. I am concerned that the report by the Inter-American Commission on Human Rights, to which Canada adheres, was not taken into account before the bill was approved by the House of Commons. The report speaks most clearly to the citizenship issue underlying the right to nationality for everyone under Canada's jurisdiction. My biggest concern is that the legislation does not ensure a person a nationality.

The report by the Inter-American Commission on Human Rights is by far the most comprehensive international statement in existence about the rights of refugees and asylum seekers. The commission's report raises concern about a general weakness in the legal system with regard to protecting international rights. For a refugee or stateless person, access to effective judicial protection is an interference with the right to nationality. The removal of citizenship for such a person might well result in statelessness. There is also the danger of a new citizen having their citizenship taken away without adequate court protection, appeal, or due process. If the new citizen happens to be a refugee, this is very serious.

My other concerns with the bill are as follows: Clause 21(1) speaks of the new power reposed in the Governor General to refuse citizenship on the grounds of "public interest." This is a rather vague and arbitrary power and runs the risk of people being denied citizenship on the basis of prejudice, bias, or political unacceptability. The power to withhold citizenship should not be exercised on such an arbitrary basis. At the very least, some criteria for public interest should be defined.

Another contentious feature of the bill is clause 22(3), according to which governmental decisions would not be "subject to appeal or review by any court." At the very least, there ought to be recourse to the courts in order to ensure that these governmental decisions stay within the boundaries of statutory authority. It is true that the bill allows access to the Federal Court for review, but this is not an appeal, nor is it reasonable to suppose that the court can guarantee the international right of nationality.

Even if it might be acceptable to make the acquisition of citizenship difficult, it is not acceptable to make the revocation of citizenship easy. Clause 17(1)(b) would authorize revocation if it is determined that "on a balance of probabilities" citizenship has been obtained by various forms of deception. Heretofore, the trend has been to require either beyond a reasonable doubt — not appropriate in these circumstances — or a high degree of probability of such deception. In view of what is so often entailed in the move from one country to another, and in view of the vulnerability that revocation of citizenship would produce, the provision "on a balance of probabilities" should be rejected. It should require more than a mere balance of probabilities to deprive persons of the rights and remedies that otherwise would be theirs.

There are both high and low levels of probability. If there is about 51 per cent probability, for example, that a person has lied, that is a low level of probability and should stand to be given the benefit of the doubt. A high level of probability should be the norm for revocation, in my view, not a balance of probabilities.

There is a danger of the loss of citizenship for refugees unless there are good safeguards for "use of false identity," for example. The use of false identity at some point is very common among refugees and the 1951 convention relating to the status of refugees expressly requires, in article 31, that refugees should not be penalized for the illegal manner in which they entered the country of refuge.

These are some of the concerns I have about this bill. I raise them to draw attention to the text where I think the bill might be substantially improved.

Hon. A. Raynell Andreychuk: Honourable senators, I had indicated that I would be speaking to this bill today. However, in light of a critical statement on this bill on Tuesday, I attempted to get some clarification from the Library of Parliament, the applicable department, and others. I have as yet been unsuccessful in doing so. Therefore, I ask that this order be put over until Tuesday that I may receive clarification before speaking to it.

The Hon. the Speaker pro tempore: Is that agreed, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Andreychuk, debate continued.

CANADA LABOUR CODE

BILL TO AMEND—MOTION TO DECLARE NULL
AND VOID—POINT OF ORDER—DEBATE ADJOURNED
TO AWAIT SPEAKER'S RULING

Hon. Dan Hays (Deputy Leader of the Government),
pursuant to notice of June 7, 2000, moved:

That, notwithstanding Rules 63(1) and 63(2), the proceedings on Bill C-12, An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts, which took place on Thursday, June 1, 2000, be declared null and void; and

That the Standing Committee on Privileges, Standing Rules and Orders review and make recommendations concerning the procedure described in Erskine May's *Parliamentary Practice*, Twenty-second Edition, at p. 545, as follows: "If a bill is carried to the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified."

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise on a point of order. I argue that the motion put forward by the Deputy Leader of the Government is out of order. His citation of rules 63(1) and 63(2) is completely inappropriate. It is certainly not the way to deal with the problem raised on Thursday, June 1, in relation to Bill C-12.

Honourable senators will remember that Bill C-12 was tabled in the Senate for first reading as a government bill. A few days later, the Deputy Government Leader advised us that the bill that was tabled is materially not the same bill as was passed by the House of Commons.

• (1430)

There is at least one amendment made at report stage in the House which is missing from the version received here. This is what *Erskine May Parliamentary Practice* refers to at page 545 of the twenty-second edition as a "serious error." This matter is not addressed either in rule 63(1) or 63(2), nor may it be corrected by a process falling under either subsection of rule 63.

The commentaries on this rule, which has been part of standing rules since 1915, are quite clear. Let me quote *Bourinot's Parliamentary Procedure*, fourth edition, which states clearly when rule 63 can be used:

When a question has been once sufficiently considered the Senate will not agree to its renewal. In 1880, a senator rose and gave the usual notice of proposed resolutions, but objection was at once taken on the ground that the matter had been already disposed of otherwise. The Senate finally resolved that "the notice should not be received by the clerk," inasmuch as the subject-matter thereof "had already been considered during the present session and referred to the Committee on Contingent Accounts"

Rule 63(1) deals with a principle that was enshrined in the procedure of the British House of Commons by resolution in 1604, which stated:

...that a question being once made and carried in the affirmative or negative cannot be questioned again, but must stand as a judgment of the House.

Furthermore, in 1610, the British House of Commons extended this principle to the passage of bills, "That no Bill of the same substance be brought in the same session."

Rule 63(1) goes one step further and does provide that two similar matters in the same session could occur, but only if, and I quote:

...the order, resolution, or other decision on such question has been rescinded as hereinafter provided.

Section (2) of rule 63 provides a formula for such rescission to take place.

That rule, which Senator Hays has included in his motion and which he wants applied in this case, is not applicable to the situation at hand, and it is completely inappropriate to suggest that this is a method to deal with the problem which now confronts the government in relation to Bill C-12. We are not dealing here with a motion that is the same in substance as a question that has been resolved in the affirmative or negative. We are dealing with a situation described by Erskine May under the heading "Bills sent by mistake." In its twenty-second edition, page 545, it sets out for all of us the route that must be followed in order to rectify the situation. I quote:

If a bill is carried to the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified.

It is beyond me why the notice of motion by the Deputy Leader of the Government requests that the Rules Committee review and make recommendations concerning this procedure. The problem is quite clear. The House of Commons, from where the bill came, must send a message to have the bill returned, and then, if they so wish, send us a correct one.

I have a number of precedents here which I think are worth quoting, because this is an unusual situation. I wish it had been a unique one, but we had the same problem less than one month ago.

The earliest precedent for the rule cited by Erskine May actually occurred before the rule came into being. In 1844, the House of Lords, having received from the House of Commons a bill entitled, "An Act to amend and consolidate the laws relating to merchant seamen and for keeping a register of seamen," made amendments and returned it to the House of Commons. The House of Commons agreed to the amendments, but it was discovered that one of the amendments was not transmitted to the House for approval. A conference was held between the two Houses to attempt to determine what was to be done, as the

Commons had agreed to the bill as amended by the Lords and passed the bill as amended, except for the missing amendment.

The Speaker of House of Commons stated, as is reported in the Journals, that:

...he was not aware of any precedent directly applicable to the present case, but he considered that it would establish a most inconvenient and dangerous one if the House were now to entertain the amendment which had been unfortunately omitted from the Merchant Seamen Bill...

It was eventually decided that the Lords would not insist on the amendment.

More recent precedents illustrate the use of the rule set out in Erskine May. For example, in 1946, the United Nations Bill was passed by the House of Lords and sent to the House of Commons in a defective state. In order to resolve the situation, a message was sent by the Lords requesting the House of Commons to return the bill, "the same having been taken to the Commons by mistake." The House of Commons ordered "that the bill be returned to the Lords, as desired by their Lordships; and that the Clerk do deliver the same."

In 1950, a message was sent by the House of Commons to the House of Lords requesting the return of the City of London Bill, and this was done by the Lords.

In 1970, a similar situation occurred in dealing with the Administration of Justice Bill, and I quote from the Journals:

...a message was sent to the Lords to request that they will be pleased to return to this House the Administration of Justice Bill, because an Amendment which the Commons have made to the Bill was not communicated to the Lords.

The same process was followed in 1974 and there are other examples in 1980, 1984 and 1985. I would be pleased to get copies of those records to Her Honour for assessment.

Honourable senators, this institution has built an enviable record of dealing with legislation in a detailed manner. We are recognized for our thoroughness and the way in which we achieve that standard. We should do everything possible to maintain our reputation for excellence in relation to the scrutiny of legislation.

I submit that the proper, in fact, the only method by which the problem raised by the proceedings around Bill C-12 may be rectified is through the receipt by the Senate of a message from the House of Commons to return the bill. We should not be simply consenting to the withdrawal of this bill and the introduction of a new bill with all the amendments incorporated.

I could have raised this argument on May 11 when Bill C-22 was found not to be the version passed by the other place, but I agreed to the Senate attending to the matter on its own on the assumption that it was a unique case. I regret now having done so, as a more rigid reaction by the Senate at that time might have made the House of Commons a little more careful in its drafting practices before sending bills on.

In any event, the process set out in the notice of motion of the Deputy Leader is not appropriate and not applicable to the situation before us. I request, with respect, a ruling that the Deputy Leader's motion is out of order, and that it is simply not the way to deal with the situation.

All the authorities are clear: It is for the House of Commons to advise the Senate of any bill sent by mistake. It is for the House of Commons to ask for its return. It is for the House of Commons to send the correct version.

It is not for the Senate to interpret and try to correct mistakes made by the other place.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I, not surprisingly, disagree with Senator Lynch-Staunton's argument that the only way to remedy the problem we face is to follow the procedure suggested in Erskine May, which he eloquently argued and presented.

There are other ways, and one of the other ways is the way that I have proposed, and that is to debate and vote on the notice of motion that I have put.

I do not have the same pages of Erskine May as Senator Lynch-Staunton. I have been working on the basis of a quotation that I sought and have used. I do not have the precise paragraph, but it is found on page 545. It is one that deals with parchment errors. It says:

If a bill is carried to the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified.

There is a footnote. I am not sure, but this may well be the same situation that Senator Lynch-Staunton quoted.

In fact, I made reference to this when I sought leave to have the proceeding that was before us, namely, first reading of Bill C-12, declared null and void, which I equate to being rescinded.

● (1440)

I have done some additional inquiring and a bit of research, and I came up with the motion that is before us on the Order Paper.

I should like to make a few comments in the context of what is the purpose behind our rule, which is referred to in our *Companion to the Rules of the Senate of Canada* at page 189. It was then rule 64, now rule 63, I believe. It is referred to as the "same question rule." The rule refers to, I think, three things. It states:

A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded as hereinafter provided.

In other words, it is an order, a resolution or other decision. In this case, I would argue that we have not made an order, passed a resolution or made a decision. What we have done in accordance with the rules under the provision of our Order Paper called Introduction and First Reading of Government Bills is given first reading to a bill. I would equate it to a notice of motion. We do something with the bill when we reach second reading stage and we do something following debate. At that point, I think we do run directly into the "same question rule," but until such time as something has happened, I do not believe that rule is applicable, unless we want to make it applicable.

The first part of my argument, then, is that what we have done by introducing a bill and giving it first reading does not, strictly speaking, come within rule 63. Why have I referred to that rule in my notice of motion, then? It was out of an abundance of caution, honourable senators, so that there would be no confusion as to the fact that, among other things, we are not going to have reference to that particular rule.

I will not quote the rules as they apply to introducing and giving first reading to bills. Once we receive a bill from the other place, it is introduced and given first reading, and it sits there until we do something with it. In this case, we have done nothing with Bill C-12. I think the process that I am suggesting we follow by dealing with the resolution is good in that we have an opportunity to debate the matter. I do not see much reason for debate.

Honourable senators, what has happened here is obvious. We received an incorrect parchment, and the other place has sent us another parchment. I would much rather they had followed the procedure suggested in Erskine May and asked for a return of the parchment, corrected it and given it back to us. I am not sure what happens in this place when a request like that is received. I suspect we probably would have to pass a resolution to comply with their request.

In any event, that is one way of dealing with the matter, but, as I said at the very beginning of my comments, not the only way. The other way, the one that I proposed, has been used a number of times.

Honourable senators, I have here a memorandum that was requested by Senator Connolly when he was government leader. I will table this document. In that memorandum dated August, 1967, and updated in 1996, there are a number of examples where the procedure I am recommending has been used.

Perhaps I can proceed backward in time. The page numbers I will cite are from the *Journals of the Senate* for the particular years to which I will refer. In 1994-96, at page 977, an order referring a bill to a certain committee was rescinded and the bill was referred to another committee.

In 1991-93, at pages 203 and 355, a motion to rescind the adoption of the first report of the Rules Committee of June 18, 1991, changing the rules was debated and eventually dropped from the Orders of the Day. That is an example of this procedure.

In 1986-88, at page 2736, an order for second reading of a bill and referral to committee — not unlike this circumstance — was rescinded and the bill was withdrawn.

For the same years, at page 3284, an order respecting the division of Bill C-103, together with proceedings concerning the committee report and third reading of Part I of the bill, was rescinded.

There are many examples, honourable senators. The oldest one that I will refer to is from 1920, at page 412, where the action of the Senate to adopt the sixth report of the Internal Economy Committee was rescinded.

Honourable senators, for the reasons stated, I believe that the motion I have put is entirely in order. It is one of the ways for this chamber to make a decision on whether to declare null and void a proceeding — in other words, the first reading of a bill. Of course, the purpose for the motion is to have that introduction and first reading declared null and void, and to clear the Order Paper so that the other version of Bill C-12, the correct version, can be given first reading and proceed in accordance with our rules.

A question was put yesterday as to how we know which is the correct bill. I can say we know that is the correct version in the same way we know that these are the correct versions when we receive them. We receive thousands of bills that are correct. Occasionally there is an error and occasionally — unfortunately, fairly frequently in the context of Bill C-22 and Bill C-12 — we have discovered errors or errors have been discovered in the other place. Corrections have been made by simply sending us the corrected version of the bill.

Honourable senators, this is something that does happen. We make errors. It could well be a bill going the other way. In any event, the error has been made. There is more than one way of dealing with it and correcting the error. The way I proposed is entirely within our rules and entirely consistent with precedents that have been used in this place in the past. I would submit on this point of order that the motion is in order and that we should be able to proceed with it.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I would hope that the Speaker, when examining the point of order raised by Senator Lynch-Staunton, will first and foremost attend to the attempt by my honourable friend the Deputy Leader of the Government yesterday, when he rose under rule 58 and quite improperly, in my opinion, chose to ignore what rule 58 states. I remind honourable senators that rule 58(2) provides that:

Where a Senator wishes to correct irregularities or mistakes in an order, resolution, or other vote of the Senate, the Senator shall give one day's notice, and a correction shall not be made unless at least two-thirds of the Senators present vote in favour of such correction.

I would ask that Her Honour give attention to the import of the two-thirds vote that is required under rule 58(2) and its application because notice of the motion that is before us today was made yesterday pursuant to rule 58.

• (1450)

My second argument is that when one looks at the rules that the honourable senator wishes us to ignore, namely, rules 63(1) and (2), rule 63(2) of our *Rules of the Senate of Canada* states:

An order, resolution, or other decision of the Senate may be rescinded on five days' notice if at least two-thirds of the Senators present vote in favour of its rescission.

What is being attempted here — and it should be a matter of alarm for all honourable senators — is the use of a majority of 50 per cent plus one to trump the rule which stipulates in certain circumstances we must have a majority of 66 per cent. The point is that what we had here was an order, and the term "order" is explicit in rule 63(2).

Obviously, the logic of attempting to use a 50 per cent plus one majority to trump a required 66 per cent majority is clear. We have the enriched majority to provide for certain kinds of protection. The protection is the protection of the minority, and that is why the rules are there.

At page 364, Erskine May has an interesting passage that Her Honour will find quite germane to this matter. It states:

The reason why motions for open rescission are so rare and the rules of procedure carefully guard against the indirect rescission of votes, is that both Houses instinctively realise that parliamentary government requires the majority to abide by a decision regularly come to, however unexpected, and that it is unfair to resort to methods, whether direct or indirect, to reverse such a decision. The practice, resulting from this feeling, is essentially a safeguard for the rights of the minority, and a contrary practice is not normally resorted to...

Honourable senators, it will be important that the Speaker's ruling on the point of order raised give us guidance as to the test or the measure of the majority that would be required to be met in these instances. To help in that regard, reference has been made to some sources in procedural literature. I simply wish to add that if we look at what our friends to the south often follow in *Robert's Rules of Order*, on the matter of the suspension of rules, it is clear that a two-thirds majority is the norm in this kind of circumstance where the rules of standing orders are being attempted to be overcome.

Hon. Anne C. Cools: Honourable senators, I missed a substantial part of the debate. First, perhaps I should clarify what we are speaking about. The question before us is a point of order in respect of a motion of the Honourable Senator Hays.

As I look at Senator Hays' motion, the wording begins "That, notwithstanding Rules 63(1) and 63(2)" and ends with the words "to have the bill returned or the error otherwise rectified." At first blush, I should like to say that this is not a motion. There are two distinct motions combined in this motion. The first part, in respect of declaring a previous proceeding of the Senate to be null and void, is one distinct proposition or motion. That is followed by a separate and distinct — and I would say unrelated — proposition, namely, that there be a reference to the Standing Committee on Privileges, Standing Rules and Orders in respect of page 545 of *Erskine May Parliamentary Practice*.

From what I can see, we have two motions here feigning to be one. In reality, this motion is two distinct propositions that bear no relationship to each other and are not joined. The motion states that "the proceedings on Bill C-12...be declared null and void." That first proposition is seeking a totally different authority from the second one. The second one is purely a reference to a committee to study a few words or a statement from Erskine May. The first proposition is the substantial one. However, the two should not be in the same motion, since the requirements are quite different for the two of them.

The second proposition is straightforward, because it asks the committee to study a particular question. The first one is the more difficult proposition, because it asks the Senate to overturn its previous judgment. It asks the Senate to overturn first reading of the bill.

I should now like to speak to that whole question of overturning a first reading of a bill.

Honourable senators, there is no mistake that the Senate gave first reading to the bill, which passed this place. It may be a mistake, but someone introduced the bill and put it before us. The Senate has given a judgment. That is crystal clear.

The question then becomes: Having given a judgment or an opinion on a bill, how does the Senate then go about overturning its own judgment and substituting a new judgment? It seems to me, honourable senators, that there is a procedure described in rules 63(1) and 63(2) for doing that sort of thing. It is simply not good enough to say that notwithstanding that process, one overturns the other. We have a very serious question before us, which is to overturn and to rescind a previous judgment. That should be factored into this picture.

If we were to drop down to the second part of that motion, which is an entirely different proposition, Erskine May's words, cited in the second paragraph, state:

If a bill is carried by the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified.

• (1500)

I submit that that particular passage as contained in this particular articulation is not helpful whatsoever. I submit it is not relevant. It seems to me that that particular passage from

Erskine May speaks to the essential question of the House of Commons having discovered that it has made a mistake. Therefore, they ask, by message, to have the bill returned to them. The particular passage in no way addresses the question of what happens when the bill has been passed. For example, let us say the bill had passed third reading. In this instance, we are talking about first reading. Suppose it had been second or third reading. At the end of the process, could the Senate actually say, "Oops, a mistake has been made. Let us send it back"? I think not. The substantial question before us is that, for whatever reason, a bill with certain imperfections has come before us and, imperfections and all, the bill has received first reading. Whatever inadequacies, whatever flaws, whatever imperfections, it has happened.

What we are dealing with here is the whole question of overturning a decision, in this instance a first reading that has been rendered in this place. Honourable senators, it seems to me that it takes a little more than a simple motion to overturn a previous decision of that magnitude.

I am pleased to see is that, somehow or other, this mishap has happened for some very sound or unquestionable reasons. There is no intention to deceive or mislead the Senate. However you sum it up, the fact of the matter is that first reading has carried in this place and the bill was adopted in this place at first reading.

I think it would be just and proper if we could wrap our minds around the real question, which is: How does the Senate overturn its own judgment of a few days previous? That is the real question that Her Honour is being asked to consider.

The Senate already has prescribed a procedure as to how it should overturn its own motions. That procedure is described in rule 63. That is the substantial question before us. It seems to me that we could proceed in a very straightforward way by giving the proper notice of the proper motion and fulfil the rules of the Senate as they have been prescribed.

The final point I should like to bring forward is that we keep hearing the word "mistake." It seems to me that once this place has made a judgment in a reading, it is not a mistake; it is the judgment of this place. It may be a wrong judgment or a bad judgment. What the Senate has to do is to say that it was a wrong or a bad judgment and then seek to overturn the Senate's own judgment in the properly prescribed and proscribed manner.

My remarks are extemporaneous because I missed a part of the debate. However, the motion contains two separate and unrelated propositions. The second is not relevant to the first. The first is the substantive issue. The funny thing about the first proposition, as I said, which is not related to the second proposition, is that the first proposition is attempting to overturn a judgment by itself overturning the rules of the Senate. That is a very serious matter.

Honourable senators, at some point in time, we will have to try to figure out exactly when rules are rules. At this point in time, I no longer know when the rules are the rules. One simply cannot keep waiving and changing the rules minute by minute, because it creates uncertainty and unpredictability.

Honourable senators, I hope I have been clear. I did not have an opportunity to hear what Senator Hays said. I missed most of what Senator Lynch-Staunton said. Very clearly, this motion is not adequate to the task.

Hon. John G. Bryden: Honourable senators, I wish to intervene on this matter to try to represent the people who are being impacted by this very important discussion that is now going on. I cannot talk about the bill because I do not want to do anything to prejudice it.

With all due respect, honourable senators, we are dealing with this bill in a highly technical and procedural way in that the discussion is about an issue that has occurred twice. I have been here for almost six years. There have been only two occasions that something like this has occurred. If it had happened twice, once four years ago and once two weeks ago, we would have said, "Well, everyone makes mistakes."

The substance of the bill deals with the safety of workers in the workplace. It deals with the right of workers to refuse to do dangerous work. One of the most important issues is that a pregnant woman have the right to refuse a work situation, whether in front of a computer screen or whatever, until such time as it is declared by a medical professional that it is safe for her to be there.

These are the real things with which both Houses of Parliament deal. Those of us who have dealt with labour-management situations, as Senator Kinsella has, know how difficult it is to bring parties to the point we have now reached. They have been trying to get here since 1995. Because I am the sponsor of the bill, if we ever get to deal with it, I receive calls from people saying, "How is it going? We want to ensure that it gets done before there is any interference with it." I assume that they will be following the proceedings in this place. Most likely they are aware that a comparable situation occurred not long ago. By the good offices of the people who understand these technicalities and so on, a decision was made, by agreement, to allow the situation to be corrected in the interests of proceeding forward.

It will be difficult for some of these people to understand why then and why not now. I can anticipate the arguments. There comes a point when we must stick by our procedures and adhere to the rules. However, to the best of my knowledge, this is not an epidemic. As I say, in six years this so-called unprecedented incident has occurred but twice.

• (1510)

Surely, in the ingenuity of the leadership on both sides of this house, and indeed, the Speaker's office, it is possible to warn the other place that this type of oversight has occurred twice in a short period of time and we will not tolerate this continuing.

In the interests of advancing what are significant and substantive concerns that have been worked on so hard by ordinary people in the workplace, is it possible to resolve the problem between the two Houses by finding some other ingenious way of dealing with it and proceed by agreement?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I enter this debate for a limited purpose. I have been impressed by the arguments put forward by Senator Lynch-Staunton in his normal, elegant and well-reasoned fashion. The honourable senator makes the point that the best way of handling this may be the way that he proposes. As Senator Lynch-Staunton put his points forward, I have found myself from time to time nodding virtually in agreement.

Of course, the issue is not what is the best way to do this. The issue is whether the method proposed by the Deputy Leader of the Government is legitimate. Is it one of the methods that can be used? I would certainly support him in that and say that of course it is. Whether or not it is the best method, the one we should look to in other circumstances, quite frankly, with respect to the decision to be taken by the Speaker, I say is irrelevant.

Honourable senators, my point relates to the argument made by the Deputy Leader of the Opposition. He indicated his objection to a principle point of the suggestion that we use a rule that requires a simple majority to pre-empt a rule that requires a two-thirds majority. I believe that was the point made by the honourable senator in his objection to the approach put forward by the Deputy Leader of the Government.

In connection with that, I should like to bring to the floor, for the Table and for Her Honour, section 36 of the Constitution Act, 1867. I will read that, if I may. Section 36 reads as follows:

Questions arising in the Senate shall be decided by a Majority of Voices...

I do not know how that impacts on such of our rules that may require something other than a majority under the Constitution, but for whatever purpose it may be helpful, I bring it to the argument.

Hon. Jean-Robert Gauthier: Honourable senators, if I enter the debate, it is because I believe most of us are thoroughly confused at this time. As far as I understand the issue, we are dealing with a bill that was read the first time. Bills are read three times in this house. The first reading gives the authority to print the bill. No vote on the question will change that issue. Reading the bill at first reading only means we do not pronounce ourselves, commit ourselves or take decisions. Honourable senators just say, yes, we authorize the printing of the bill and its circulation to the members of this house.

If I am wrong, I want the Deputy Leader of the Government to tell me that I am wrong. If I am not wrong, then what the heck is going on here? We are making a big issue that is obstructing an important bill, which, to me, should be adopted by this house because it deals with workers in this country. Let us not dilly-dally. Whether or not we need two-thirds, 50 plus one, or whether or not it is two motions, I do not care very much. I want to see action taken on this bill. If the concern arises at first reading of the bill, the mistake lies with the other place. We all recognize that. Let us go on and proceed with the suggestion made by the Deputy Leader of the Government.

I know there are other methods. I am quite aware of what is in Erskine May. I could go on for half an hour about the solutions available at this stage, but I feel that the proposal made by the Deputy Leader of the Government is a good one, and we should adopt that proposal.

Senator Lynch-Staunton: If I may make a few closing comments, at least closing on my part. When a bill comes here, it is already printed. It is not like the House of Commons. We proceed immediately to second reading. If Senator Gauthier will allow a correction, our procedure is different.

We should not be discussing the nature of the bill now. I do not know the bill that well. I am told by colleagues who do know it that it is a very good bill, and we should get on with it. I agree with that. If we are to follow the government leader's proposal and do it in the best way we think is suitable, then we might as well throw the authorities and the procedure books away, and just go day by day whimsically. Either we follow basic rules or we do not.

An error was made in sending the bill over here. Who caused the error is irrelevant. It is up to those who made the error to recognize their mistake, to advise us accordingly, and to take the necessary steps to send over the proper bill. It is as simple as that. It is not for the government leader or deputy leader to take the responsibility of tabling a bill on behalf of the government and take the responsibility for its accuracy. It is for the House itself, by message, to say, "Sorry, we sent you the wrong one, here is a correct one." It is not for members of the Senate to do so on behalf of the government, even if they are spokesmen for the government here. I think the responsibility that Senator Hays wants to take upon himself is one he should not. If the honourable senator takes responsibility now, if his motion is adopted, he is, in effect, guaranteeing the accuracy of bills that are prepared by others. That is not his job.

Honourable senators, what we are trying to do with this point of order, is ensure that the bills that come here are complete and correct. The only people who can guarantee that are those who are responsible for sending the bills, and no one else, and certainly not someone in this place.

Senator Hays: I should like to claim the right to make a few final comments. First, with respect to Senator Kinsella's statement, he went on to refer to section 58(2), which requires an extraordinary majority. I refer to section 58(1) as the basis for my motion, namely a day's notice for a motion to suspend the rules. I refer to rule 63, which I think is the most constricting or potentially the largest hurdle to cross.

I believe all of the arguments I made with respect to section 63(1) apply *mutatis mutandis* to rule 58(2). I repeat, the reference in both is to an order, resolution or other vote of the Senate in the case of section 58(2) and, in the case of section 63, an order, resolution or decision on the question.

Honourable senators, I should like to associate myself, in the strongest possible way, with Senator Gauthier's comments and

read the relevant rule from the *Rules of the Senate*, rule 73(2), which states:

Immediately after its introduction a bill shall be read a first time and printed.

That is similar to the House. Nothing more happens. We move a motion, as a matter of our custom, that it will be given consideration at the earliest time, that is two days hence in the case of a bill.

Honourable senators, I am not asking to interfere with that motion. The Senate has done nothing at this point. We have received a bill from the House. It has been introduced and given first reading. Procedurally, that sets the pathway for the bill to be dealt with. It is like a Notice of Motion. It is not a situation where we must apply, as Senator Lynch-Staunton submits, and as supported by Senator Cools, the rule on the same question. I do not think that is necessary. We are not trying to do the same thing twice. We have done nothing at this point with Bill C-12. That is the problem.

• (1520)

With respect to Senator Lynch-Staunton's point on following the rules, he is right that we should follow the rules, but this is a rare occurrence, and we do not have a clear provision in our rules to deal with this situation. That is why my motion contains a provision that we refer the matter, with the quote from Erskine May, to the Standing Committee on Privileges, Standing Rules and Orders for the purpose of clarifying our rules.

This is not the first time this has happened, honourable senators. In a similar circumstance, the Standing Senate Committee on Banking, Trade and Commerce made the same recommendation. We have not yet heard from the Rules Committee on that matter.

I request the permission of the Senate to table the memorandum from which I quoted, dated January 29, 1982, and revised August 7, 1996, regarding motions or orders rescinded since 1915. The Senate has rescinded an order some 16 times. I am arguing that first reading is less than an order.

In tabling this document, since honourable senators have not had an opportunity to read it, I will note that virtually all of the orders that were rescinded were motions moved with leave. They were not passed with leave. In one case, for example, the motion was passed on division with a voice vote.

When we give leave to abridge the time from the giving of a notice of motion to dealing with the motion, that is all we do. It has nothing to do with the motion itself. The motion may be passed with leave, but normally the motion is put as a question and dealt with in that way. I make that comment in anticipation of there being some identification of leave not only to proceed but to do that for which the motion calls.

As I have said, Senator Lynch-Staunton's points are very good, outlining a way in which this problem could be resolved. It is difficult for us to do that at this time because, as I understand it, the clerk of the other place requires a motion or resolution to be passed, and we may well have to do the same here.

That is a lengthy procedure, and I referred to Senator Bryden's comments about timeliness. I think we should follow this other pathway to dealing with the problem we are encountering at this moment with Bill C-12.

Honourable senators, I request leave to table the memorandum I identified earlier.

The Hon. the Speaker *pro tempore*: Is leave granted to table the document?

Hon. Senators: Agreed.

Hon. Eymard G. Corbin: Surely, honourable senators, we will be given sufficient time to examine that document. As one who has rights and likes to exercise them, I am hopeful that we are not rushing into a request for a ruling without having had appropriate time to examine all of the evidence that is being put before us.

Senator Kinsella: Honourable senators, I associate myself with the comments of Senator Bryden. This is very important. We are dealing here with a point of order on the methodology proposed by Senator Hays, which we find totally inappropriate. We did indeed accommodate work through the usual channels the last time this happened. The issue before us is how messages pass back and forth between the two Houses of Parliament. Let us assume that we expunge, by whatever methodology, the first reading of the bill before us. What then happens? We need a message from the House of Commons with the parchment containing "the correct bill." Therefore, action is required in the other place, not here. I agree with Senator Bryden. I think the only way in which this matter can be resolved is for the House of Commons to send a new message with a new parchment to this place. We can find the methodology to expunge what is currently before us.

Senator Hays: Honourable senators, as Her Honour said yesterday, we have received the corrected parchment. It could not be read because a bill was already sent and received. It cannot be dealt with by us because we have already given first reading to a bill, a process that we are asking be found null and void in order that the parchment we have received can be given first reading.

As I have said, we receive these parchments all the time. They have been incorrect on two occasions of which I am aware. On all other occasions, as far as I know, they have been correct.

Senator Cools: Honourable senators, I wish to point out that in my remarks I made no comment on the substance of the bill because the substance of the bill is not before us in this discussion. I believe that most of us are quite supportive of the substance of the bill and should like it to move ahead.

Further to what Senator Corbin said about rushing into various procedures, if a decision is required of this place to overturn a

previous decision, that involves each and every member of the Senate. It involves the rights and privileges of each and every member to express an opinion and to vote on that particular question.

Often, much here is dismissed as simple technicalities. First reading is not simply the printing of the bill. First reading is the resolution of this place that senators have read the bill and are resolved that it proceed to the next stage.

Senator Hays is saying that the Senate must now resolve that senators did not read the bill and did not agree that it should proceed to second reading. It becomes even more clear that we are not nullifying or voiding a procedure but rather overturning a previous judgment.

The Senate is being asked to agree, by motion, that its previous judgment was the wrong judgment, and that is the issue before us. We are dealing with a rescission of a Senate judgment.

Senator Boudreau referred to a section of the BNA Act as part of the guidance to Her Honour and to the Speaker. I would remind honourable senators that the Speaker of the Senate has no proper role in constitutional and substantial questions. As honourable senators know, I believe these questions should be resolved by senators without reference to the Chair.

The only question to be answered is whether this motion satisfies the requirements needed for the Senate to arrive at a conclusion opposite to that at which it originally arrived. How does the Senate go about doing that? The mistake that was made was not that of the Senate. The mistake made was that the Senate adopted a bill at first reading it may not have wished to adopt.

I should like to make it quite clear that I am supportive of the substance of the bill. However, senators should pay much more attention to procedural issues.

• (1530)

Senator Hays: I hesitate, but I guess I should answer the arguments against me.

Senator Cools' point is well put as it is and is helpful, as Senator Cools always is, but I must disagree. When we give first reading to a bill, we do it in accordance with the rule that I quoted. It is read a first time and printed.

If it were read and we had knowledge of it, we would not wait two days to start debate. The reason we wait two days is so that we can study the bill and be prepared to go on to the next stage. At first reading, no stage has been moved to and nothing has occurred.

In terms of Senator Corbin's point about taking quite a bit of time here, I doubt that Her Honour will rule from the Chair. Assuming she does not, we probably will not return to this matter until Tuesday. I would ask the cooperation of honourable senators to do the reading, get a copy of the document I tabled or other references so that hopefully we can proceed with this item when we sit next week, simply because, as Senator Bryden has

pointed out, this is an important bill and it deserves our earliest attention. I would hope we would all agree, as Senator Cools agreed, that we should do that.

The Hon. the Speaker *pro tempore*: Honourable senators, again I want to thank you for all your valuable comments and arguments. I will take the matter under advisement and provide a ruling at the next sitting of the Senate.

Debate adjourned to await Speaker's ruling.

STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

EXPORT DEVELOPMENT ACT—INTERIM REPORT OF BANKING,
TRADE AND COMMERCE COMMITTEE ON STUDY ADOPTED

The Senate proceeded to consideration of the fourth report (interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "Export Development Act," tabled in the Senate on March 28, 2000.—(*Honourable Senator Kolber*).

Hon. E. Leo Kolber moved the adoption of the report.

He said: Honourable senators, the Export Development Corporation is reviewed every so often, and we have just completed that review and have tabled our report.

In 1993, the government passed amendments to the Export Development Act that substantially expanded the powers of the Export Development Corporation. Section 25 of the revised act required that a review of EDC be undertaken five years after the amendments took effect and every 10 years thereafter.

On July 21, 1999, the report on the review of EDC, prepared by the law firm of Gowling, Strathy & Henderson, was tabled in the House of Commons and referred to the Standing Senate Committee on Banking, Trade and Commerce as well as the House Standing Committee on Foreign Affairs and International Trade.

Not wishing to duplicate the thorough job done by the House Standing Committee, the Senate Banking Committee focused on a few key issues, most prominently the lack of private sector involvement in the medium-term financing of Canadian exporters.

It is my view, and I believe that of the entire committee, that this is a serious issue facing Canadian exporters today. This issue revolves around recommendation 14 of the Gowling report, which states:

The government should make a program available to the banks on Canada Account which would provide guarantees for Consensus loans. The cost of establishing and operating this program would be charged to the banks in the form of risk-based Consensus compliant guarantee fees. The

program would only be established if a sufficient number of banks were prepared to subscribe to it.

The House committee concluded the issue be studied further. Our committee heard from the banks, who favoured the Gowling recommendation, and the EDC, which had first opposed it, but then agreed to take part in further study.

While it has done a brisk business supporting Canadian exporters, the EDC has not done as well in enhancing the participation of Canadian financial institutions such as banks, insurance companies and factors, in the financing of exporters.

Testimony heard by the committee clearly suggested that the banks particularly could expand Canada's export capacity for SMEs, which are small- and medium-sized enterprises.

Ultimately, the committee did not feel that further study was warranted, particularly in the fact that new legislation was about to come down the pike on the whole matter all over again.

The committee's view on this matter was simple. The more institutions competing to provide financing to Canadian exporters, the better for exporters and Canada as a whole.

As Guy David, the leader of the Gowling review team, testified before the committee:

Canada is far too dependent on trade for its economic well-being to place excessive reliance on a single financial institution.

Being in agreement with this philosophy, the committee recommended that the government establish a guarantee facility that levels the playing field while not compromising the EDC's ability to serve exporters. Clearly, the paramount concern for the committee was to ensure that Canadian exporters were provided with the best possible assistance to allow them to compete in the international marketplace. I believe the work done by all members of the Banking Committee on this study will achieve this goal.

Finally, I would be remiss if I did not touch on one other issue. The committee also received written submissions from civil society groups. Canadians are rightly proud of the importance we all place on values such as human rights and respect for the environment. We expect our institutions, including the EDC, to respect these values.

The committee notes that the EDC continues to address these concerns through its Environmental Review Framework and its Code of Business Ethics, and that the EDC is formulating disclosure guidelines to provide greater transparency in its actions. The committee does not want to suggest that the EDC is failing to meet its civil society obligations, nor do we wish to suggest measures that would make it more difficult and costly to meet its commercial objectives. However, the committee felt it important that these principles be acknowledged, understood and reflected in the activities of the EDC.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

TAXATION OF CAPITAL GAINS—INTERIM REPORT OF BANKING,
TRADE AND COMMERCE COMMITTEE ON STUDY ADOPTED

The Senate proceeded to consideration of the fifth report (interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "The Taxation of Capital Gains," tabled in the Senate on May 3, 2000.—(*Honourable Senator Kolber*).

Hon. E. Leo Kolber moved the adoption of the report.

He said: Honourable senators, last fall, the Standing Senate Committee on Banking, Trade and Commerce began a study of the capital gains tax in Canada. There were two factors that gave impetus to this study.

• (1540)

First, in the spring of 1999, during hearings dealing with the availability of equity financing for small- and medium-sized enterprises known as SMEs, the committee heard from many witnesses that an increase in the exemption on capital gains and a reduction in the taxation rate on capital gains would help the Canadian economy.

By the way, we just came back from Chicago where we held hearings on venture capital. We heard from a group of American venture capitalists who told us, unequivocally, that if it were not for our silly capital gains posture, we would have much more venture capital in this country.

This would happen, the committee was told, because financing would become available from successful entrepreneurs who reinvest some of the profits that they earn into smaller companies with growth potential in their region. Indeed, we were told that, at the then current capital gains tax rates, there was an unfavourable risk-reward relationship in extending equity financing to SMEs. Investors would face the downside possibility of losing their entire investment, with limited tax benefits, while, on the upside, they must share a significant proportion of their return with the government. They are better off making investments in less-risky avenues where there exists a better risk-reward trade-off.

With respect to start-up situations, we were told the accepted figure is that two out of 10 succeed and that eight out of 10 fail. The U.S. venture capitalists thought it was more like two out of 20. Be that as it may, if there is a loss on eight out of 10 and money is made on two out of 10, and 40 per cent of that profit has to be given back, on the face of it, mathematically it does not seem like a good business.

Second, the Canadian economy, relatively small and open compared to other major industrial democracies, is intimately intertwined in the global economy. Moreover, in the real world of commerce, Canada has become more vulnerable to the business

and economic conjuncture in the United States. In practical terms, this means that Canada is subject to the global competitive pressures in markets for goods and for services — which mirror our productivity performance, by the way — and we must also compete in the international market for capital and labour, particularly for entrepreneurial skills.

The committee believed that because of the international mobility of resources, Canadian tax policy, particularly relating to capital gains taxation, had to take careful account of developments among its trading partners. In particular, because the United States is so important to Canada, Canada's tax policy must be competitive with the Americans if both the Canadian economy and Canadian society are to flourish. Clearly, the ability of Canadians to find "good" jobs is a prerequisite to meeting this objective.

The evidence collected by the Banking Committee was summarized in our report tabled in this house last month. The committee heard from many distinguished experts on the subject, including several from offshore and, virtually without exception, they supported the major tenets underlying the rationale for the study. Moreover, they encouraged the government to face up to the reality of the marketplace and take onboard the idea of being competitive with the Americans. Indeed, there was a genuine belief among the witnesses that Canada's policies towards capital accumulation were misguided and that a change of substantial proportions was necessary.

We heard about the negative contribution of Canada's capital gains taxation policy on the relatively small number of start-up enterprises, its impact on the so-called brain drain, the impact on the high cost of capital relative to our competitors, and, importantly, the absence of a robust market in venture capital. The list could go on. The bottom line is that we had better change the way we manage our affairs.

We, as a committee, did not come forward with a great many recommendations. In fact, there was only one recommendation in the report: That the Canadian capital gains tax rate should quickly be lowered to match the rate in the United States, that international competitiveness be the criterion guiding the choice of a capital gains regime, and that the federal government must be prepared to lower the tax until that criterion is met.

I ask, what could be clearer? The committee has put forward a purposeful recommendation to benefit the economic and social development of the country. Lowering the capital gains tax is an investment in Canada's future. It helps to create an environment that is friendly to business, friendly to capital, friendly to the creation of good and enduring jobs, and tells the world that Canada is the place to invest.

What this means, in public policy terms, is that the last budget of the Minister of Finance did not go far enough, although the direction was obviously right. The current effective capital gains tax for persons was lowered from almost 40 per cent to about 33 per cent. However, the United States' rate is 20 per cent. Ireland's rate is 20 per cent. In the Netherlands, recently judged a very good place to do business, capital gains are exempt. In Germany, if you hold capital assets for over six months, they are also exempt.

Let us get on with governing in a way that provides a good environment for social and economic development. We want, first, better-sustained job and economic growth performance, and, second, to encourage greater risk taking and entrepreneurship. Without these elements of success, we will not be able to afford those policies that provide Canadians with a world-class social safety net.

Hon. Jeremiah S. Grafstein: Honourable senators, I wish to commend Senator Kolber and the committee for an interesting, one-recommendation report. I am curious about a subject matter to which he referred but did not deal with in the recommendation — that is, the increasing capital pools in the hands of pension funds. If one takes a look at the accretion of power in economic terms in the last 10 years, there has been an accelerating rate of economic power in the hands of pension funds — capital power for capital investment. Was the chairman able to take a look at the investment practices of these pension funds and how much money they are, in fact, delegating to small business starts in Canada compared to other matters, and whether this is a sufficient flow of funds to small business from pension funds that are capital-exempt and are tax-exempt to help accelerate investment in Canada?

Senator Kolber: Actually, the amount of money, as I recall, from pension funds is quite small. The big sum of money — and it is a large proportion of the money available — is from the labour-sponsored funds. Perhaps that is what Senator Grafstein was referring to. The labour-sponsored funds, for example, have not been too successful. They also attract money by tax incentives from both levels of government.

The pool of capital, to answer the honourable senator's question directly, is really still very small.

Senator Grafstein: Does the honourable senator have any numbers?

Senator Kolber: I do not have them here, but I would be happy to get them and send them to the honourable senator.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

MOTION TO AUTHORIZE COMMITTEE TO MEET
DURING SITTINGS OF THE SENATE WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Chalifoux:

That the Standing Senate Committee on Energy, the Environment, and Natural Resources have power to sit

at 5:30 p.m. on Tuesday, June 6 and June 13, 2000, for the purpose of hearing witnesses on its study of Bill S-20, An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada, even though the Senate may then be sitting, and that Rule 95(4) be suspended in relation thereto.—(*Honourable Senator Hays*).

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, this order stands in my name. What would be achieved if the motion were passed is now irrelevant. I accordingly ask that the motion be withdrawn.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion withdrawn.

RELIGIOUS FREEDOM IN CHINA IN RELATION TO UNITED NATIONS INTERNATIONAL COVENANTS

INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wilson calling the attention of the Senate to religious freedom in China, in relation to the UN international covenants.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to participate in the debate on the inquiry brought forward by Senator Wilson calling our attention to the state of religious freedom in China, with particular reference to the United Nations international covenants, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

On March 3 of this year, a matter of a few weeks ago, Her Excellency Mary Robinson, the former president of Ireland and current High Commissioner for Human Rights at the United Nations, expressed her concern that religious expression in China was suffering from government clampdowns and that those violations had negative effects on the practice of democracy in China. China was not particularly pleased with the High Commissioner's critique and argued that the Chinese people are satisfied with the freedoms that they now enjoy.

• (1550)

In response to questions posed to the Government of Canada on February 15 of this year by myself and my colleague Senator Di Nino, the government stated that it is concerned with the negative treatment of Christians in China and was pursuing the matter through bilateral relations and dialogue with senior Chinese officials.

Honourable senators, we welcome that undertaking and statement of an undertaking by the government, and hopefully in the not-too-distant future we may have a report from the government on the specific steps that have been taken during the various bilateral relations and dialogue between Canada and China. To date, no specific action has been taken by the Canadian government on the specific matter of the limitation of religious freedoms in China.

This is of particular concern in light of Senator Wilson's inquiry because, as honourable senators realize, Canada has ratified, with the agreement of all of the provincial and territorial governments in Canada, the International Covenant on Civil and Political Rights. In that international human rights treaty, we remind ourselves that Article 2, Section 1 states that state parties to the covenant undertake to protect, among other rights, freedom of religion.

In that light, the federal government must enunciate a clear and unequivocal position on the Chinese government's campaign to silence unapproved religious and other various faith communities that are present in China.

Catholic Archbishop John Yang Shudao was jailed because he refused to renounce his loyalty to the Roman Catholic Church in Rome in favour of supporting the Communist Party's approved Catholic church and the China Patriot Catholic Association. Eight other bishops and many priests languish in jail as a result of this crackdown on religious freedom. This, I believe, for Canadians is not acceptable.

There is a tendency in some circles to attempt to justify the imprisonment of these men of the cloth by virtue of the assumption that religious rights detract from China's unique history or China's unique cultural experience. This sort of xenophobia, it seems to me, is an affront to the values that underpin the position of the Universal Declaration of Human Rights that all people have rights of belief and that such rights exist independent of governments, regimes, countries or leaders. It is difficult to understand how one can justify the political limitation of human rights based on the principles that those who practise foreign religions somehow seek to violate Chinese laws and codes of conduct.

Facing similar repression are followers of the spiritual group Falun Gong, about which comments have been raised and made in this chamber. The movement, which is a combination of Buddhism, Taoism and ancient Chinese healing practices, was ruled a criminal cult by the Chinese government. Over the years, thousands of Falun Gong practitioners have been jailed.

What is the Government of Canada prepared to do in order to voice its disapproval of China's persecution of the Falun Gong followers? Will it sponsor, for example, a China resolution of censure at the United Nations Commission on Human Rights, or will it impose trade sanctions until freedom of religion is permitted in the People's Republic of China?

In discussions with students of political science such as Valerie Schaebulin of the United States, we examined in some detail the 1999 Country Report on Human Rights Practices on China conducted by the United States State Department. That report states:

Unapproved religious groups, including Protestant and Catholic groups, continue to experience varying degrees of official interference, repression and persecution. The Government continued to enforce 1994 State Council regulations requiring all places of religious activity to register with the government and come under the supervision of official, "patriotic" religion organizations.

One might wonder, honourable senators, whether the federal government subscribes to the notion that this sort of control exercised over legitimate great religions of the world is not protecting community rights but rather those of a political party that fears freedom of religion would lead to its own demise.

The federal government has argued that:

By engaging in dialogue Canada is able to familiarize Chinese officials with international standards and approaches to human rights.

So long as Canada is willing to de-link China's human rights record from other forms of multilateral and bilateral economic relations, there is no real incentive for China to change its human rights practices.

One of the critical questions that arises in discussion of human rights is whether the Western concept of human rights is universally applicable, and from that flows the question of establishing a proper balance between the rights of the individual and the rights of the community. One needs to be careful if one goes down that avenue. If one takes the view that human rights can be considered subordinate to cultural issues, as China appears to be doing and as some have argued in this house, the practice of religious freedoms will certainly become problematic in China.

The belief that human rights are contextual, it seems to me, negates the universal nature of rights bestowed on each person by virtue of our humanity. Rights, in my view, are not contextual; they are universal and completely non-divisible.

I should like to call the attention of honourable senators to the International Covenant on Social, Economic and Cultural Rights, which has been part of our international treaty obligations since 1976 and which China has signed but not yet ratified. Article 5(1) of that treaty provides:

Nothing in the present Covenant may be interpreted as implying for any State group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

Section 2 of the same treaty continues:

No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Those rights include protection from persecution based on race, ethnicity, language or religious belief.

Some Asian leaders, such as Suharto, in the past have used the argument that human rights are culturally defined. They have used this argument to excuse and justify acts of atrocity against their own citizens. I would hope that members of this house and Canadians in general would reject an interpretation of human rights that attempts to justify the excesses of authoritarians above the rights of the common person.

Accepting the argument that rights can be subject to the context of the day demonstrates a fundamental misinterpretation and misunderstanding of what universal human rights are and what they ought to be.

Historical aberrations in Western society may appear to lend some support to the position that the West has ignored its own stated position on human rights, but it is a claim that is offensive and inaccurate. Past failures do not condone present and future complacency or leniency for those who would limit the rights of humanity.

• (1600)

The great libertarian John Stuart Mill observed that policy should seek to provide "the greatest good for the greatest number," but this should not be taken to mean that the majority's tyranny of the minority is justified. Good for the many does not justify the oppression of the few.

It has been suggested that to debate Asian values versus Western values is to debate rights of communities versus the rights of individuals. One advocate of this argument is the Malaysian Prime Minister Mohamed Mahathir, who masterminded the false imprisonment of his former finance minister Anwar Ibrahim in the name of the collective interest. He invoked a made-up threat to collective rights in order to abrogate Anwar's individual rights.

This is a practice which, when seen in action, is clearly not supportable. At the extremes, one could argue that even basic necessities such as shelter would also be culturally defined rights.

The great Canadian known to many in this chamber, Professor John Humphrey, believed that the Universal Declaration of Human Rights, which China has also signed, articulated rights that should not be subjected to any limitation, including that of culture and nationality. Although the famous Indian scholar, R. Pannikar wrote that "Human rights are one window through which one envisages a just human order for its individuals," Pannikar and his academic contemporaries took the broader view

that public affairs should be partially desecularized and organized such that affairs of state are conducted with respect for the contributions and character of all religions.

Clearly, this is not the case with the Chinese Communist Party government, which seeks to use arguments advocating multi-religious tolerance and participation to justify the exclusion of religions that do not toe the "party line." Although we must be sensitive to cultural differences, states should not be involved in controlling or defining religion.

What, then, is Canada's role in the scheme of things as we consider China's blatant abuse of the right to religious freedom? Is there a relationship between trade and human rights? Should there be? Is Canada eager to trade with human rights violators? Does the government take the view that China's cultural and historic attributes should shape our approach to human rights?

Will the Government of Canada intervene with the Chinese government in Beijing and seek the release of Archbishop John Yang Shudao, who was picked up by the Chinese security police in the city of Fuzhou? Does the federal government worry when religious leaders are placed under house arrest for not complying with state-defined religions and practising freedom of religion?

Does the Government of Canada approve or disapprove of China's abuse of the right of religious freedom? Does the Government of Canada approve or reject the Chinese government's recognition of only authorized religions?

In closing, honourable senators, I should like to reflect on a quote given by Thomas Jefferson during his first inaugural address:

Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none....Freedom of religion; freedom of press, and freedom of person by juries impartially selected. These principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment. They should be the creed of our political faith, the text of civil instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty and safety.

I ask honourable senators: To what extent are we prepared to protect human rights? If the government fails to recognize the importance of an issue as critical as human rights today, in what direction will this steer us in the future? Will the government examine this issue before it becomes too late?

The Hon. the Speaker *pro tempore*: Honourable senators, if no other senator wishes to speak, this order shall be considered debated.

CIVIL JUSTICE SYSTEM**MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE—
DEBATE ADJOURNED**

Hon. Anne C. Cools, pursuant to notice of March 29, 2000, moved:

That a Special Committee be appointed to examine the civil justice system in Canada, including its operations, costs and availability to litigants, and the role of legal aid in the context of family law, with special emphasis on the impact of false allegations of child or spousal abuse within custody proceedings on both the administration of justice, and on the litigants and their immediate families;

That the Committee have the power to consult broadly, to examine relevant research studies, case law and literature;

That the Senate Special Committee on civil justice in Canada shall be composed of 5 senators, 3 of whom shall constitute a quorum;

That the Committee have the power to report from time to time, to send for persons, papers and records, and to print such papers and evidence as may be ordered by the Committee;

That the Committee have the power to sit during the adjournment of the Senate;

That the Committee have the power to retain the services of professional, technical and clerical staff, including legal counsel;

That the Committee have the power to adjourn from place to place within Canada;

That the Committee have the power to authorize television and radio broadcasting of any or all of its proceedings; and

That the Committee shall make its final report no later than 1 year from the date of its organization meeting.

On motion of Senator Hays, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motion:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58 (1)(h) moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 13, 2000, at 2 p.m.

The Senate adjourned until Tuesday, June 13, 2000, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)

Thursday, June 8, 2000

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	0	99/12/16		
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs	99/12/16	2	00/02/09		
S-17	An Act respecting marine liability, and to validate certain by-laws and regulations	00/03/02	00/04/04	Transport and Communications	00/05/09	2	00/05/17		
S-18	An Act to amend the National Defence Act (non-deployment of persons under the age of eighteen years to theatres of hostilities)	00/03/21	00/04/04	Foreign Affairs	00/05/04	0	00/05/16		
S-19	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	00/03/21	00/04/06	Banking, Trade and Commerce					
S-22	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	00/05/11	00/05/18	Legal and Constitutional Affairs					

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act respecting the election of members to the House of Commons, repealing other Acts relating to elections and making consequential amendments to other Acts	00/02/29	00/03/28	Legal and Constitutional Affairs	00/04/13	0	00/05/31	00/05/31	9/00
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	0	99/12/14	99/12/16	35/99

C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02	Subject matter 99/11/24	99/12/06	99/12/09	00/04/13	5/00
		99/12/06	Social Affairs, Science and Technology	2			
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	Legal and Constitutional Affairs	99/11/30	99/12/08	00/03/30	1/00
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14	Aboriginal Peoples	00/03/29	00/04/13	00/04/13	7/00
C-10	An Act to amend the Municipal Grants Act	00/03/28	National Finance	00/05/04	00/05/09	00/05/31	8/00
C-11	An Act to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts	00/06/08					
C-12	An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts	00/06/01					
C-13	An Act to establish the Canadian Institutes of Health Research, to repeal the Medical Research Council Act and to make consequential amendments to other Acts	00/03/30	Social Affairs, Science and Technology	00/04/06	00/04/10	00/04/13	6/00
C-16	An Act respecting Canadian citizenship	00/05/31					
C-20	An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference	00/03/21	Special Committee of the Senate on Bill C-20	00/05/18			
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14		99/12/15	99/12/16	99/12/16	36/99
C-22	An Act to facilitate combating the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence	00/05/09 (withdrawn 00/05/11) 00/05/11 (reintroduced)	Legal and Constitutional Affairs (withdrawn 00/05/18) Banking, Trade and Commerce (00/05/18)	00/05/17			
C-23	An Act to modernize the Statutes of Canada in relation to benefits and obligations	00/04/12	Legal and Constitutional Affairs	00/06/08	0		
C-25	An Act to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999	00/06/08					

C-26	An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence	00/05/16	00/05/30	Transport and Communications				
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	00/03/23	00/03/28	-	-	00/03/29	00/03/30	3:00
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	00/03/23	00/03/28	-	-	00/03/29	00/03/30	4:00
C-32	An Act to implement certain provisions of the budget tabled in Parliament on February 28, 2000	00/06/07						

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-202	An Act to amend the Criminal Code (flight)	00/02/08	00/02/22	Legal and Constitutional Affairs	00/03/02	0	00/03/21	00/03/30	2:00
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02	00/05/18	Legal and Constitutional Affairs					
C-276	An Act to amend the Competition Act (negative option marketing)	00/05/18							
C-445	An Act to change the name of the electoral district of Rimouski—Mitis	00/05/09							
C-473	An Act to change the names of certain electoral districts	00/04/10							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13	00/02/23	Legal and Constitutional Affairs					
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin) (Dropped from Order Paper pursuant to Rule 27(3) 00 05 11)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02	00/02/22	Social Affairs, Science and Technology					
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99 11-02	99/11/03	Legal and Constitutional Affairs					

S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02	00/02/22	Privileges, Standing Rules and Orders
S-8	An Act to amend the Immigration Act (Sen. Ghitter) <i>(Dropped from Order Paper pursuant to Rule 27(3) 00/05/04)</i>	99/11/02		
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03	00/05/04	Legal and Constitutional Affairs
S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault, P.C.) <i>(Dropped from Order Paper pursuant to Rule 27(3) 00/02/08)</i> <i>(Restored to Order Paper 00/02/23)</i>	99/11/04		
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18		
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02	00/02/22	National Finance
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16		
S-16	An Act respecting Sir John A. Macdonald Day (Sen. Grimard)	00/02/22		
S-20	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	00/04/05	00/05/09	Energy, the Environment and Natural Resources
S-21	An Act to protect heritage lighthouses (Sen. Forrestall)	00/04/12	00/06/01	Fisheries
S-23	An Act respecting Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	00/06/06		

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	-	-	-	99/12/08	00/03/30	

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(HANSARD)

Tuesday, June 13, 2000



THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*

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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Tuesday, June 13, 2000

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

NEW SENATORS

The Hon. the Speaker *pro tempore*: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Raymond G. Squires, C.M.
Jane Marie Cordy

INTRODUCTION

The Hon. the Speaker *pro tempore* having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. Raymond G. Squires, C.M., of St. Anthony, Newfoundland, introduced between Hon. J. Bernard Boudreau, P.C., and Hon. Bill Rompkey, P.C.

Hon. Jane Marie Cordy, of Dartmouth, Nova Scotia, introduced between Hon. J. Bernard Boudreau, P.C., and Hon. B. Alasdair Graham, P.C.

The Hon. the Speaker *pro tempore* informed the Senate that the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, it is my pleasure to extend a warm welcome to our two new colleagues, Senator Jane Cordy and Senator Raymond Squires. Both have contributed tremendously to their local communities, to their regions, and now have been asked to contribute to their country with their respective appointments to the Senate of Canada.

Today, it is my great honour and pleasure to welcome a fellow Nova Scotian, a Cape Bretoner and a long-time personal friend to the red chamber, Senator Jane Cordy. While this is Senator Cordy's first day in the Senate, I am confident that with her long-time background in education and community service, along with her well-seasoned political experience, she will

quickly adjust to her new surroundings and become an active contributor to the work of the Senate.

Senator Cordy has taught for 30 years in schools throughout Nova Scotia and has distinguished herself as a dedicated educator. She is also a social activist and community volunteer for a number of important causes, such as Phoenix House, a shelter for homeless youth, the Dartmouth Book Awards, Colby Village Elementary School, and her local church in Dartmouth, St. Clement's.

I expect that Senator Cordy's experience with children and families, along with her commitment to public service, will allow her to make a significant contribution to the work of this place.

On a personal note, I look forward to working with Senator Cordy on issues particular to Nova Scotia and to benefiting from her knowledge, expertise and commitment about those issues important to our home province.

Senator Cordy, welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

Senator Boudreau: Honourable senators, Senator Squires is no stranger to public life. He has been a civic leader in the St. Anthony community for 20 years. Senator Squires had the distinction of serving as a town councillor for 12 years and as a mayor for eight of those 20 years.

Senator Squires' volunteer service included two years as President of the St. Anthony Chamber of Commerce, two years as President of the St. Anthony Lion's Club, and four years as Chair of the Finance Committee of the Grenfell Regional Health Services of Northern Newfoundland and Labrador.

Senator Squires is a successful entrepreneur, starting Squires Garage Ltd., a gas and automobile service station, back in 1955. He also owned and operated the St. Anthony Motel for a period of 10 years.

Senator Squires has been recognized numerous times for his contributions to his community and to his country. These include being a lifetime member of Lion's International of Canada and of the St. Anthony Lion's Club. In 1997, he was recognized as a Member of the Order of Canada.

His strong commitment to public service in his community and in his province will make Senator Squires a strong representative for his region in the red chamber.

Senator Squires, we welcome you and your addition to the Senate of Canada.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition):

Honourable senators, I am pleased to join with the Leader of the Government in the Senate in welcoming our two new colleagues who, as he pointed out, bring with them an experience in public life that will no doubt be beneficial to all of us. It is regrettable, however, that in Senator Squires' case, this will only be true for less than a year. As one who was also involved in municipal politics, I am naturally prejudiced in favour of those who have served on town councils, as decisions taken there impact more immediately on daily lives than those at the provincial and federal levels.

If the St. John's press report is accurate, Senator Squires has said that he has yet to take a decision about what is euphemistically called the clarity bill. This is not legislation — I know he will agree — that can be decided on overnight. I am sure he would find wide support in his new caucus were he to urge that the bill remain in committee during the summer in order to allow him and others adequate time to assess its merits or lack of same, as the case may be.

Honourable senators, Senator Cordy also has an extensive background at the local and regional level, and the sentiments regarding those expressed to our other new colleague apply to her as well. I note, however, with some envy, I readily admit, that she will be around somewhat longer than just about the rest of us, another 26 years or so, unless, like another recent arrival from Nova Scotia, the song of the Liberal siren seduces her into seeking a seat in the other place in the next election.

If the Halifax press reports are accurate, Senator Cordy is enthusiastic about the clarity bill or, as some of us prefer to call it, the obscurity bill. Sober second thought is the hallmark of the Senate and its members indulge in it constantly. As Senator Cordy examines the issue more closely and has the benefit of the wisdom of a number of her colleagues, some of them just across the aisle from me, Senator Cordy may also seek more time to come to a final decision on the Prime Minister's legacy.

In any event, whatever their decision on this and other bills, let me extend warmest congratulations to both Senator Squires and Senator Cordy. They have the official opposition's best wishes as they assume their new responsibilities.

Hon. Senators: Hear, hear!

• (1410)

SENATORS' STATEMENTS

PHILIPPINE NATIONAL DAY

Hon. B. Alasdair Graham: Honourable senators, in the final few decades of the over 300-year period of Spanish colonial rule in the Philippines, a brilliant young Filipino student studying in Europe began to write political novels which had a dramatic impact in his homeland. José Rizal's passion for nationalism was not revolutionary in tone, yet when he returned to the Philippines

in 1892, he was quickly arrested by the suspicious, overly fearful Spaniards, and finally executed in 1896.

Nearly a century later, in February of 1986, I left my hotel room in Manila to walk in the park across the street. I was part of a historic electoral mission sent to monitor the snap elections called by then president Ferdinand Marcos. It was the first and largest international election-observing mission of that magnitude in the world. I was overwhelmed by the tension gripping the capital city. Those of us who were witness to the one-million strong rallies held for the courageous Cory Aquino were in no way prepared for the rampant violence and terrifying intimidation that was about to be unleashed, and which would shock public opinion across the globe.

As I walked, sleepless and reflecting on what was to come, I noticed a monument dedicated to José Rizal, the Father of Philippine Independence. I wrote the words down on a scrap of paper, which I have kept until this day. I quote:

I wish to show those who deny us patriotism that if we know how to die for our duty and our convictions, what matters death if one dies for what one loves for native land and for adored beings.

Honourable senators, yesterday was Philippine National Day. On June 12, 1898, the Philippines won independence from Spain in an outburst of nationalist fervour partly inspired by the tragic death of young José Rizal.

The election-observing mission I was privileged to be a part of established standards for the world. It was a mission that not only changed the world, but changed the lives of all of those who were part of it. Massive disenfranchisement, the theft of ballot boxes and blatant irregularities in the vote count, along with violence and political killings made this election one of the historic turning points in the conscience of the global community.

We watched as The National Citizens' Movement for Free Elections, or NAMFREL as it was called — a kind of citizens' army that organized over 500,000 volunteers to show the world the magnitude of the rampant vote buying and intimidation — risked their lives for the future of their children and their children's children.

Honourable senators, in the early dawn of this new century, we often find ourselves chillingly accustomed to the outbreaks of ethnic hatred and the horror of civil wars which continue to haunt our planet.

Today, as we reflect upon the enormous significance of the struggle for Philippine Independence — a struggle which began over a century ago and reached its culmination in the landmark elections of 1986 — we think of this proud and talented people and the lessons they have taught the world about the sheer power of the human spirit. We think of the fine contribution so many Filipinos have made to Canadian life and Canadian society. We think of the steely determination I was privileged to witness on this complex and strikingly beautiful archipelago nearly 15 years ago.

The display of people power in 1986 opened a new chapter in the struggle for real democracy in our time — but it was a new chapter in an evolving story about democratic development and human rights. That struggle continues. I pray that all Canadians will continue to cherish and nurture the seeds of freedom across this planet, not only as a testament to the values we ourselves hold dear, but as critical path to the creation of a better world for our children and our children's children.

MR. BILL ALLEN

TRIBUTE

Hon. Thelma J. Chalifoux: Honourable senators, when the Fathers of Confederation struggled with the role of this upper chamber, they took into consideration exactly what the role would be. One of the major roles of this house is to represent the regions, the minorities and the people who really do not have a voice.

Since being in this house, I have noticed that the staff of the Senate have taken on that role as well. Our staff volunteer in many worthwhile projects that are often left in neglect. It is through our staff that many things have been addressed.

Today, I am standing here before you, honourable senators, very proud to talk about one such member of our staff. Bill Allen, a member of the bull gang of the Parliamentary Precinct Services Directorate, has a great concern regarding young people. When he came to my office, we discussed Operation Go Home. Operation Go Home is an organization that works with our homeless children, children who have run away from home and who have suffered. It is through this organization that these children are given the opportunity to reconnect with their families, to work out their issues and to return home.

It is a voluntary organization. I have been honoured to flip flapjacks and hamburgers down in the market for them, but Bill Allen has gone far beyond that. He decided that he wanted to have his head, beard, and eyebrows shaved to raise funds.

I would like to recognize Bill Allen, who is sitting in the Senate gallery.

Hon. Senators: Hear, hear!

Senator Chalifoux: Through Mr. Allen's efforts, we have been able to raise \$4,190. We are still hoping to reach the \$5,000 mark. That really says a lot about our Senate staff.

Once again, thank you, Bill. By your efforts, you have made a great impact on all of us, and especially your son.

Hon. Senators: Hear, hear!

NATIONAL PUBLIC SERVICE WEEK

Hon. Marie-P. Poulin: Honourable senators, I wish to follow up on what our colleague was just talking about, the quality of

the Public Service of Canada. Yesterday, most Canadian newspapers carried a message from our Prime Minister, the Right Honourable Jean Chrétien which read:

National Public Service Week is much more than an occasion to celebrate the skill, wisdom and talent of the members of the Public Service of Canada. It is an opportunity for us to reflect on the professionalism and dedication of those men and women who have chosen to serve Canadians and whose many contributions continue to give us an unparalleled quality of life.

I am constantly struck by the commitment to excellence of the members of the federal public service. Each brings to his or her work an individual perspective and a diversity of experience. They give of their considerable talents to deliver service to Canadians, to develop the policies and laws by which we are governed and to protect and represent their nation.

During this week, please join me in extending thanks to the members of the Public Service of Canada in every department and agency across the country whose devotion to their work better serves us all.

It was signed by the Right Honourable Jean Chrétien.

[Translation]

• (1430)

Honourable senators, I had the honour and pleasure of serving our country as a public servant and as an employee of a public agency for close to 25 years. I have worked alongside men and women from a broad range of professional backgrounds but all sharing a dedication to serve Canadians from coast to coast to coast. The quality of our public service, of our human infrastructure, is internationally renowned.

In order to ensure that this quality continues in years to come, the public service is busy not only renewing itself, but also bringing itself fully into the computer age so as to make it more efficient, available and uncomplicated.

This computerization will attract young Canadians who will see in the Canadian public service not only numerous opportunities to work within stimulating teams but also opportunities to excel themselves.

[English]

Honourable senators, as parliamentarians, let us celebrate this week and recognize publicly the quality of Canada's public service.

Hon. Senators: Hear, hear!

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, following on the remarks by Senator Poulin, I, too, would like to make a few comments on the public service, since this is National Public Service Week.

We are justly proud of it, for it is the best one in the world. I can say this, because I spent several years representing the interests of the Public Service in the House of Commons. Our public service is ideal for the kind of country we are. The public servants are the ones who keep the machinery of government rolling and who continually provide services to the Canadian people. They bring to their jobs their own perspective and their variety of backgrounds. Together, that is what makes up our strength. There are some 187,000 Canadian public servants in close to 70 different departments and agencies, if we include Revenue Canada. Of that number, 96 per cent believe that they play an important role. Of the 52 per cent of them who are women, 51 per cent work in the following categories: executive, scientific and professional, or service and administration. Only a scant six years ago, that figure was 40 per cent. The theme of the week is: Let us celebrate together our commitment to our work and to the pursuit of excellence.

I invite all of you to show recognition of the excellence and professionalism of these Canadians who provide us with professional and non-partisan services.

[English]

CHURCH COMMUNITY

INDIAN AFFAIRS—FINANCIAL EFFECT OF LAWSUITS
BY FORMER STUDENTS OF RESIDENTIAL SCHOOLS

Hon. Lois M. Wilson: Honourable senators, on June 10, 2000, thousands of people across Canada gathered in their own regions to celebrate the seventy-fifth anniversary of the United Church of Canada established by act of Parliament in 1925. It was the first such union in the world to bring together, rather than divide, various Protestant traditions. In this we rejoice and ask you to rejoice with us.

However, there is a current matter that calls not for rejoicing but for creativity — the legacy of the Indian residential schools, which not only the United Church but the Anglican, Roman Catholic and Presbyterian Churches are seeking to address. It is widely estimated that more than 10,000 individuals are suing governments and churches for cultural and racial assimilation policies that collapsed a culture and virtually destroyed native language use. The current situation arises from the historic and, in retrospect, misguided social policy of assimilation designed by the Canadian government of the day and managed by the churches, and it requires a creative social policy response. It represents an issue of enormous social importance to the whole country.

Last weekend, while with a group of Ontario citizens touring the Parliament Buildings, I was interested that the tour guide

proudly pointed out to us the sculptured frieze in the foyer of the House of Commons. "There is a religious," he said, "educating an Indian child." I piped up, "And those same religious are now being sued."

We now know that the dominant ideology of colonialism and assimilation of Indian people, supported and endorsed by the Canadian government and churches, reflected public opinion as well at that time. The policy was expressed through many government-mandated instruments, including Indian residential schools. The need for a just settlement is one of the most urgent priorities facing Canada today.

Much has been made of the fact that some churches, because of current and future litigation, may be headed for greatly diminished financial resources or even bankruptcy. A more serious complaint is about the litigation-based response which guarantees that many plaintiffs will die before their claims are settled because they took place 30 to 50 years ago; that the compensation they ultimately receive will be dwarfed by the cost of that litigation; and that the adversarial nature of the legal system makes it impossible to redress the wrongs of residential schools through litigation.

If Canada can adopt a more creative approach than litigation, we may yet demonstrate the capacity of Canadians to bring justice, healing and reconciliation between aboriginal people and the dominant society in this nation, in somewhat the same spirit as South Africa's Truth and Reconciliation Commission. What a great opportunity at this juncture in our history to establish ongoing, just and healing relationships among Canadians.

[Translation]

ROUTINE PROCEEDINGS

STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

INTERIM REPORT OF BANKING, TRADE AND COMMERCE
COMMITTEE—GOVERNMENT RESPONSE TABLED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have the honour of tabling the Government of Canada's response to the fourth (interim) report of the Standing Senate Committee on Banking, Trade and Commerce entitled "Export Development Act."

[English]

FOREIGN AFFAIRS

EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE—
BUDGET REPORT OF COMMITTEE ON STUDY PRESENTED

Hon. Peter A. Stollery, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Tuesday, June 13, 2000

The Standing Senate Committee on Foreign Affairs has the honour to present its

NINTH REPORT

Your Committee, which was authorized by the Senate on May 9, 2000 to examine and report on emerging political, social, economic and security developments in Russia and Ukraine, taking into account Canada's policy and interests in the region, and other related matters, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary; and to travel from place to place within and outside Canada.

The budget was presented to the Standing Senate Committee on Internal Economy, Budgets and Administration and in its Tenth Report, the Committee recommended that an amount of \$74,637.00 be released for this study. The report was adopted by the Senate on Wednesday, June 7, 2000.

Respectfully submitted,

PETER A. STOLLERY
Chairman

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stollery, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

AGRICULTURE AND FORESTRY

PRESENT STATE AND FUTURE OF FORESTRY—BUDGET REPORT OF COMMITTEE ON STUDY PRESENTED

Hon. Ross Fitzpatrick, for Senator Gustafson, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Tuesday, June 13, 2000

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on November 24, 1999 to examine the present state and the future of forestry in Canada, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical, and other personnel as may be necessary;

and to adjourn from place to place within and outside Canada.

The budget was presented to the Standing Committee on Internal Economy, Budgets and Administration on Thursday, April 6, 2000. In its Tenth Report, the Internal Economy Committee recommended that an amount of \$184,275 be released for this study. The report was adopted by the Senate on Wednesday, June 7, 2000.

Respectfully submitted,

LEONARD J. GUSTAFSON
Chair

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Fitzpatrick, report placed on the Orders of the Day for consideration at the next sitting of the Senate

[Translation]

• (1430)

COMMITTEE OF SELECTION

SEVENTH REPORT PRESENTED

Hon. Léonce Mercier, Chairman of the Committee of Selection, presented the following report:

Tuesday, June 13, 2000

The Committee of Selection has the honour to present its

SEVENTH REPORT

Pursuant to rule 85(1)(b) of the *Rules of the Senate*, your Committee submits herewith the list of Senators nominated by it to serve on the following committee:

SPECIAL SENATE COMMITTEE ON ILLEGAL DRUGS

The Honourable Senators Carstairs, Kenny, Nolin, Pépin and Rossiter.

Respectfully submitted,

LÉONCE MERCIER,
Chairman

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Mercier, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

BROADCASTING ACT

BILL TO AMEND—FIRST READING

Hon. Sheila Finestone presented Bill S-24, to amend the Broadcasting Act.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Finestone, bill placed on the Orders of the Day for second reading on Thursday, June 15, 2000.

QUESTION PERIOD

TRANSPORT

MARINE ATLANTIC—FUTURE OF JOBS LOCATED IN NORTH SYDNEY, CAPE BRETON

Hon. J. Michael Forrestall: Honourable senators, my question is directed to the Leader of the Government in the Senate, who is one of my favourite Nova Scotians. I welcome the new Nova Scotian to our chamber and wish her every success as she carves out yet another career in the public service. I know that she will be an asset to this chamber.

As the Leader of the Government knows, the Premier of Newfoundland and Labrador, and a Liberal leadership contender, is tossing around a lot of negative rhetoric with regard to the fate of Marine Atlantic's headquarters in North Sydney, with as many as 250 jobs and services, including provisioning of the ferries now currently done in Nova Scotia by Nova Scotians. There is a view that Marine Atlantic is solely a Newfoundland and Labrador company and that all jobs in Marine Atlantic — and I quote some Newfoundlanders — “save two persons to tie up the ferry in North Sydney, belong to Newfoundland and Labrador.”

Will the minister for Nova Scotia assure Nova Scotians that the operation's headquarters personnel, reservations, purchasing and stores, and stevedoring personnel are maintained in North Sydney where they have been for generations upon generations? Will he ensure that any new employees taken on by this Crown corporation will be judged by their qualifications for the job and not the province of their residency?

Hon. J. Bernard Boudreau (Leader of the Government): I thank the honourable senator for his question and I thank him for his generous remarks of welcome for our new senator and colleague from Nova Scotia. I suspect at one time she may have been a constituent of the honourable senator.

Senator Forrestall: That she was.

Senator Boudreau: I am not sure where she was at that stage in terms of personal support, but I am sure she was well served by the senator when he was a member of the other place.

With respect to CN Marine, I could not agree more with the honourable senator. It is a company with a national importance and its employees should not by definition come from any area of the country. I have received representations from people in North Sydney concerned about the future of jobs located in North Sydney. One of those representations came from the local MLA, who is also named Boudreau and who succeeded in winning the seat that I used to hold. I like to believe it is because of the association by name, but there may have been other reasons as well. In any event, he, union representatives and some workers have all raised the issue with me.

I have sought assurances from the ministers involved, and I have been assured that no positions which are presently at North Sydney will be moved anywhere.

Senator Forrestall: Honourable senators, I welcome and appreciate that response. Perhaps it can be strengthened a bit with the response I get to my next question.

As the minister knows, unemployment in Cape Breton is 16 per cent to 17 per cent officially and, regrettably, much higher unofficially. We cannot afford to lose any more jobs in Cape Breton, as the minister well knows. The province needs and wants a clarification on the status of Marine Atlantic. Is it just a Newfoundland and Labrador company, or is it a Crown corporation serving the interests of both provinces?

The Premier of Nova Scotia is so concerned about the bickering that he has written the Prime Minister and copied the letter to the Leader of the Government in this place without, I might add, any response.

Will the minister from Nova Scotia assure Nova Scotians that the operation's headquarters personnel, reservations, purchasing and stores, and stevedoring personnel will be maintained in North Sydney and that any new employees will be hired on the basis of their qualifications and not their place of residency?

Senator Boudreau: That is the assurance in general form that I sought, honourable senators, and it is the assurance I have been given by the minister.

I quite agree with my honourable friend, and I also emphasize that no jobs should be given automatically to a Canadian as a result of their place of residence. CN Marine is not only a Newfoundland and Nova Scotia company; it is a Canadian company.

• (1440)

People from all across this land use it regularly to visit Newfoundland, and vice versa. It belongs to the whole country. That is not to say that, traditionally, certain jobs have not been located in certain areas. The assurance that I have given those concerned is that I have spoken to the minister, and he has indicated that no jobs will be moved from North Sydney.

I am also aware of the letter written by the premier to the Prime Minister, and I am confident that the Prime Minister will give him that same assurance, but I will also be discussing it with the premier.

Senator Forrestall: Honourable senators, would the minister inquire of the Prime Minister whether he might cause a written response to go to the Premier of Nova Scotia?

Senator Boudreau: Honourable senators, the Honourable Senator Forrestall makes a good suggestion. I will do that.

ENVIRONMENT

POSSIBILITY OF INCREASE IN FUNDING FOR FRESHWATER RESEARCH—REQUEST FOR NATIONAL FRESHWATER POLICY

Hon. Mira Spivak: Honourable senators, my question is directed to the Leader of the Government in the Senate.

I have asked questions recently about Dr. David Schindler who, as honourable senators know, is one of Canada's most respected scientists, whose research on acid rain in the 1970s and 1980s helped write environmental legislation all around the world, and who received the equivalent of two Nobel prizes from Swedish foundations. He has just written a study, which will be published shortly, about the state of Canada's fresh water, and his study has been reviewed by John Smol, a prominent freshwater scientist at Queen's, who said that Dr. Schindler hit the nail on the head.

Dr. Schindler predicted that the combined effects of climate change, acid rain, human and livestock waste, increased ultraviolet radiation, airborne toxics and biological invaders will result in the degradation of Canadian fresh water on a scale hitherto unimaginable. He says that without increased funding for freshwater research and a national water strategy, fresh water will become Canada's foremost ecological crisis early in the 21st century.

I have been regularly asking questions about research. Of course, the minister knows that acid rain research, particularly with respect to the Experimental Lakes, was cut back severely when the government began its attack against the deficit.

What are the chances for an increase in the funding for freshwater research, the kind of research for which Dr. Schindler could not get any funds from the government because of needed partners in industry? In addition, what are the chances for a national freshwater policy for Canada?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for her question. We have had discussions on this general point, as she points out, in the past in this chamber. I will not repeat the overall initiatives —

Senator Spivak: Please don't; I know them very well.

Senator Boudreau: — on research and development that this government has undertaken, regardless of how worthy and how significant those programs are.

I assume that the honourable senator is asking for a dedicated program specific to the integrity of the freshwater supply in this country. Of course, I will await the report that Professor

Schindler is preparing and releasing soon. Obviously, in view of some events that have occurred in this country recently, the environmental integrity of our freshwater supply is a very important and timely topic, one that will have to be considered seriously both at the provincial and the federal levels.

Senator Spivak: Honourable senators, the important point that Professor Schindler makes is that fresh water is multi-stressed. A combination of factors that were not present before make this an urgent matter.

With respect to the second part of my question concerning a national water policy, which has been hinted at by various governments — I think a bill even died on the Order Paper — and since in recent days the Minister of the Environment has said it is not a federal responsibility, is the government contemplating such a policy? The peace, order and good government clause is always available to be used.

Senator Boudreau: Honourable senators, I did not mean to ignore the second part of the honourable senator's question. I certainly will consult with the Minister of the Environment to seek his views and his plans as to whether a national strategy will be developed.

I must say in passing, as a neophyte in this particular area, that if the fresh-water supply of Canada is at such risk, imagine what it must be like in the rest of the world.

ATOMIC ENERGY OF CANADA LIMITED

POSSIBILITY OF PRIVATIZATION

Hon. Lowell Murray: Honourable senators, I should like to ask the Leader of the Government in the Senate whether the government has taken a policy decision to privatize some or all of Atomic Energy of Canada Limited.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not aware of any such policy decision at this point in time, but I will ask the minister and return to the honourable senator with the information.

DELAYED ANSWER TO ORAL QUESTION

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on June 7, 2000, by Senator Forrestall, regarding the replacement of Sea King helicopters and the possibility of an imminent announcement on procurement.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—POSSIBILITY OF IMMINENT ANNOUNCEMENT ON PROCUREMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, since the question is time-sensitive, I shall read the answer. The Minister of National Defence has not reserved the Charles Lynch pressroom for Tuesday, June 13.

[Translation]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker *pro tempore*: Honourable senators, I am pleased to introduce to you the pages from the House of Commons, who are here this week as part of the exchange program with the Senate.

Nathalie Courcelles is already at work as you can see. She comes from Ste. Agathe, Manitoba, and is studying Spanish in the Faculty of Arts at the University of Ottawa.

Karine Rozon, from Cornwall, Ontario, is studying mathematics in the Faculty of Arts at the University of Ottawa.

On behalf of all the honourable senators, I welcome you to the Senate. I hope you will find your week here with us interesting and instructive.

ORDERS OF THE DAY

NATIONAL DEFENCE ACT DNA IDENTIFICATION ACT CRIMINAL CODE

MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill S-10, to amend the National Defence Act, the DNA Identification Act and the Criminal Code, and acquainting the Senate that it had passed the bill without amendment.

[English]

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill S-3, to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and acquainting the Senate that they have passed this bill without amendment.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, as the first item for consideration, I should

like to call the matter standing in my name under Motions with respect to Bill C-12.

[Translation]

• (1450)

CANADA LABOUR CODE

BILL TO AMEND—POINT OF ORDER—SPEAKER'S RULING—
MOTION TO DECLARE NULL AND VOID ADOPTED

On the Order:

Motion by the Honourable Senator Hays, seconded by the Honourable Senator Mercier,

That, notwithstanding Rules 63(1) and 63(2), the proceedings on Bill C-12, An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts, which took place on Thursday, June 1, 2000, be declared null and void; and

That the Standing Committee on Privileges, Standing Rules and Orders review and make recommendations concerning the procedure described in Erskine May's *Parliamentary Practice*, Twenty-second Edition, at p. 545, as follows: "If a bill is carried to the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified."

The Hon. the Speaker *pro tempore*: Last Thursday, June 8, the Deputy Leader of the Government, Senator Hays, moved a motion with two objectives. The first seeks to nullify the proceedings thus far on Bill C-12 respecting amendments to Part II of the Canada Labour Code. The second objective is to refer the subject of messages between the two Houses and defective bills to the Committee on Privileges, Standing Rules and Orders. Once the motion was moved, the Leader of the Opposition, Senator Lynch-Staunton, promptly rose on a point of order to challenge its procedural acceptability. His remarks were followed by numerous interventions from different senators. During the course of these exchanges, a variety of objections were raised concerning the motion in addition to what Senator Lynch-Staunton had raised. As well, there was some discussion about the Senate's practices regarding the suspension of the rules, rescinding decisions and multi-purpose motions.

[English]

I have reviewed the *Debates of the Senate* of last Thursday. I have also studied Canadian and British precedents and consulted my procedural advisors. I am prepared to give my ruling. In so doing, I will try to deal with each of the different issues that were raised.

One question is whether this motion is legitimate procedurally because it seems to deliberately thwart certain explicit rules of the Senate. It must be noted, however, that rule 58(1)(a) allows for this. Any senator is entitled to propose a motion, after notice, to suspend any rule or any part thereof. As I read this, the motion of Senator Hays seeks, in part, to suspend the application of rule 63 that provides a mechanism for rescinding decisions. Instead, the senator wants to completely nullify and void the proceedings relative to the introduction and first reading of Bill C-12.

[Translation]

I am not certain, in this case, that this is really a substantive issue. In speaking in defence of his motion, the Deputy Leader of the Government indicated that the reference to rule 63 was made out of a sense of caution. In his view, the introduction of a bill and its first reading do not strictly speaking come within the ambit of rule 63. I find this to be a reasonable assessment.

[English]

Rule 23(2) states:

The Introduction and First Reading of Government, Public and Private Bills are *pro forma* stages of consideration and shall be decided without debate or standing votes. In such cases the provisions of rule 65(3) shall not apply.

[Translation]

This means, in effect, that the introduction and first reading of a bill do not really involve a decision of the Senate. Whenever a bill is introduced, the entry in the Journals, since 1991, simply states that a bill was read a first time. As an ancillary matter, an order is then adopted fixing the day when the bill will be called for second reading. Consequently, a motion to nullify the proceedings for the introduction and first reading of a bill does not properly involve the use of rule 63 which pertains "to an order, resolution or other decision of the Senate". If the nullification motion were to be adopted, the order fixing the date to begin second reading of the bill would be discharged and stricken from the Order Paper since it would be a nullity.

[English]

As I noted, there was considerable discussion last Thursday about rule 63. Although I do not believe that this rule is directly relevant to the motion of Senator Hays, I should like to take this opportunity to make a comment relating to a reference made by Senator Boudreau. In his intervention, the Leader of the Government cited section 36 of the Constitution Act, 1867, which states that "Questions arising in the Senate shall be decided by a Majority of Voices..." Normally, as Speaker, I would have no authority to involve myself in this kind of question. However, this case is an exception because section 36 is also rule 65(5) word for word.

[Translation]

To my mind, there is a conflict between rule 65(5) and rule 63 and also rule 58(2), both of which set a two-thirds majority vote

to rescind or correct orders, resolutions or other votes of the Senate. Given the source of rule 65(5), it might be appropriate for the Committee on Privileges, Standing Rules and Orders to determine the validity of any rule which appears to conflict with an explicit provision of the Constitution.

[English]

There was also some discussion about the complexity of the motion. An objection was made suggesting that having more than one proposition invalidated the motion procedurally. I do not accept this argument. While there may indeed be two distinct propositions contained in this motion, it does not render the motion unacceptable. In this particular case, there appears to be a relationship or connection between the two of them, and the motion is not out of order because of this.

As I have explained, I find the motion proposed by the Deputy Leader of the Government to be procedurally acceptable. Its effect is to nullify all the proceedings connected with the message that was received June 1 concerning Bill C-12. It was widely acknowledged and admitted last Thursday that the purpose of the motion was to provide an opportunity to bring in a corrected version of the bill. Apparently, there were some textual errors in Bill C-12, as originally transmitted from the House of Commons to the Senate. Once this error was discovered by officials in the House of Commons, the bill was reprinted in its correct form. The Senate must now be seized of this information so that it can do its work properly with the right bill.

[Translation]

In speaking to the point of order, Senator Lynch-Staunton argued that the proper traditional way to do this is by message. The Leader of the Opposition maintained that there was an obligation for the House where the error occurred to send a message to recall the bill. The Leader of the Opposition cited numerous cases in the British Parliament where bills transmitted from one House to the other that were defective were recalled through a message. As it happens, this process is also known to Canadian practice. There is a precedent dating back to 1913 relating to a bill respecting a canal company. On that occasion, a bill was sent to the Senate from the House of Commons that was defective. On February 20, 1913, the sponsor of the bill in the Commons secured the adoption of a motion recalling the bill from the Senate because it had not been printed as passed.

[English]

I am in complete agreement that messages between the two Houses provide the proper formal way to deal with problems of this kind. Furthermore, I am in sympathy with what I perceive to be the irritation underlying much of this point of order. Nonetheless, as an occupant of this Chair, my obligation is to maintain the rules and practices of the Senate. In this specific case, I must note that there is a valid alternative to deal with this problem. This alternative possibility is admitted in the passage of Erskine May that has been cited by both Senator Hays and Senator Lynch-Staunton. At page 545 of the 22nd edition, it is stated:

If a bill is carried to the other House by mistake, or if any other serious error is discovered, a message is sent to have the bill returned or the error otherwise rectified.

[Translation]

The motion of Senator Hays seeks to implement this alternative to rectify the problem of the printing error in Bill C-12. In pursuing this approach, he is doing what was accepted last month when we confronted a similar problem with Bill C-22, a bill dealing with money laundering. Honourable senators will recall that on that occasion, Senator Hays moved a motion on May 11 to declare the proceedings with respect to the introduction and first reading of Bill C-22 null and void. As noted in the Journals of that day at page 594, the motion was adopted after a brief debate. Later in the same sitting, a message was read leading to the introduction and first reading of Bill C-22. Of course, this message contained the corrected text of Bill C-22.

[English]

• (1500)

The procedure used with respect to Bill C-22 was reasonable and procedurally acceptable in every way. In the absence of a message asking for the return of the defective bill, there is no reason why the approach proposed in the motion of Senator Hays cannot be used as an alternative. I would also note that the second element of the motion of Senator Hays, if accepted, would mandate the Standing Committee on Privileges, Standing Rules and Orders to review this issue and to provide possible recommendations that might prove more satisfactory in dealing with matters of this kind in the future.

Debate on the motion can now proceed.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, in speaking to this motion, I refer to the fact that much has been said about this matter. Accordingly, I believe it is in order for me to be brief.

I simply ask honourable senators to support the motion to would declare the first reading and printing of Bill C-12 currently on our Order Paper a nullity. In other words, this resolution which will clear the Order Paper for the introduction for first reading of the corrected parchment for Bill C-12 that has been delivered from the other place.

This is a difficult matter and one in which none of us have taken any particular pleasure. It is always better if everything is done correctly. From time to time, errors are made in this place and in the other place. When that happens, the errors must be addressed. I am pleased that we can now bring this matter to conclusion.

The motion also asks the Standing Committee on Privileges, Standing Rules and Orders to look into this matter and consider the various options that are available to the chamber in these situations.

With that, honourable senators, I conclude my remarks in support of my motion. I would be happy to answer any questions.

[The Hon. the Speaker pro tempore]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I did not intend to participate in the debate; however, Senator Hays in his remarks has anticipated what happens after the disposition by the house of his motion. His anticipation speaks to the supposed message that will come from the other place with a parchment. It may be helpful for all honourable senators to understand the form and substance of that message that we will be receiving.

Is it a new message? What is the authority of that message? We could consider that when it happens, after the disposition of this particular motion, but perhaps honourable senators have some views on that. We are anticipating somewhat what happens after the disposition by the house of this motion.

Senator Hays: Honourable senators, I will treat that as a question and answer as best I can. While I have not physically held the second parchment, my understanding from the comments by Her Honour is that the other place has forwarded to us a parchment signed appropriately and regular in all respects.

This whole matter arises out of the fact that we have already given first reading to a similar document which we received.

During debate on the matter, the question came up, "How do we know this one is correct?" I can only answer Senator Kinsella by saying that it is very rare that there is a parchment error. We can only operate on the assumption that what we receive from the other place is correct, particularly in this kind of situation. There was a parchment error and the House of Commons opted to deal with it by sending to us a corrected parchment. The language used was "the bill as passed" and "the reprint of the bill as passed."

We are awaiting the opportunity for the Table to bring forward, in the manner provided for in our rules, the reprint of Bill C-12 as passed by the House of Commons on May 31 of this year.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Anne C. Cools: On division.

Motion agreed to, on division.

[Translation]

CANADA LABOUR CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-12, to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading at the sitting of the Senate two days hence.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): On a point of order, honourable senators, can we receive advice on where that document will be tabled and when it can be examined by the opposition?

Senator Hays: Speaking to the matter of order, honourable senators, I believe it is fair to say that this item will receive the same treatment as all bills that are introduced and given first reading in accordance with our rules and printed in our Order Paper and that the document will be available at the Table for examination. Hopefully, that will be helpful to Senator Kinsella.

Senator Kinsella: The document is available from the Table for examination, is it?

Senator Hays: Yes.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I wonder if I might use my prerogative now and call as the next order of government business, item No. 4 under "Bills" which is consideration of Bill C-11 involving the Cape Breton Development Corporation.

• (1510)

CAPE BRETON DEVELOPMENT CORPORATION DIVESTITURE AUTHORIZATION AND DISSOLUTION BILL

SECOND READING—DEBATE ADJOURNED

Hon. J. Bernard Boudreau (Leader of the Government) moved the second reading of Bill C-11, to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts.

He said: Honourable senators, Bill C-11 represents a milestone, a turning point, for the people and the economy of Cape Breton. The bill is part of a balanced approach that recognizes that the people of Cape Breton do not want to live their lives looking into a rear-view mirror, but would rather pursue the opportunities the future holds for them and for their community with confidence and in a climate of certainty.

The essence of Bill C-11 is to provide legal authority for Devco to sell all, or substantially all, of its assets to the private sector. The direct involvement of the federal government in coal

mining operations, which began in 1967 with the creation of Devco, will come to an end. However, the end of the government's direct involvement in coal operations does not mean the end of the government's commitment to the people of Cape Breton. That commitment will continue.

The history of Devco and of coal mining in Cape Breton is well known to senators because in 1996 the Senate established the Special Committee on the Cape Breton Development Corporation, and in 1997 its mandate was revived in order to allow further hearings. In view of that work and the reports that were tabled, I do not intend to delve into the past in any great detail, but a context for this legislation is important.

In 1965, the Dominion Steel and Coal Company, which operated most of the region's mines, was near bankruptcy and made it known that it wanted to withdraw from all of its mining operations. At that time, employment in the coal fields was approximately 6,000 people.

In 1967, the federal government stepped in by establishing the Cape Breton Development Corporation, or Devco. Devco had two operating divisions: the Coal Division and the Industrial Development Division. The Industrial Development Division had a mandate to stimulate job creation elsewhere in the economy as the coal industry was rationalized. In 1988, its responsibilities were transferred to the Enterprise Cape Breton Corporation, which is not affected by this legislation.

Devco's other division, the Coal Division, took over the leases of Dominion Steel and Coal Company in 1968. Since then, the federal government has heavily subsidized its operations, even as coal production and employment have fallen.

Beginning in 1984-85, Devco was told to develop a commercial orientation and focus more strongly on commercial business principles in an effort to reduce continuous operating losses. In 1991, the corporation was given a mandate to achieve financial self-sufficiency by 1995. Notwithstanding everyone's best efforts, that goal eluded the corporation.

In 1999, on the recommendation of Devco's board of directors, the government agreed to phase out operations at Phalen, one of Devco's two remaining mines, and to privatize the corporation's remaining assets. At the time of the announcement and in the months following, the government agreed to forgive \$69 million in loan obligations and to provide an additional \$150 million in funds to maintain operations until March 31, 2000. Undoubtedly, additional funds will be required from the treasury for this fiscal year. As well, it is safe to assume that potential environmental liability to date will remain with the Government of Canada.

This latest injection of capital to keep Devco's coal operations functioning is in addition to the almost \$1.6 billion that the government has invested since 1967 as Devco's sole shareholder. In only one of the last 32 years has Devco's coal operation not received financial assistance from the government. By any measure, successive federal governments, including the current one, have gone to great lengths to support the coal industry in Cape Breton.

When the government announced early last year its intention to privatize Devco, it was unequivocal about its determination to do two things: first, to support the employees of Devco, and second, to assist Cape Breton through a difficult transition period. My colleague and immediate predecessor, Senator Graham, argued strongly and successfully that, in the difficult circumstances Cape Breton faced, justice and fairness demanded an approach that addressed the needs of both the miners and the community in which they live.

As a result of the planned closure of the Phalen mine and the privatization of the remaining assets, primarily the Prince mine, the workforce engaged in coal mining would be reduced from approximately 1,600 people to 500 people. To assist those remaining 1,100 employees to make a successful transition, the government announced a \$111 million early retirement and severance package. When Devco decided, for geological and safety reasons, to shut down the Phalen mine a year earlier than originally planned, the government announced that it would re-evaluate that package.

In that context, it agreed to the union's request for binding arbitration under the Canada Labour Code and to the union's selection of Mr. Bruce Outhouse as the arbitrator. Mr. Outhouse is generally regarded as one of the most experienced, respected and knowledgeable arbitrators in Nova Scotia. Earlier this month, he released his final report, which called for expanded eligibility for early retirement benefits and enhanced medical benefits. This decision will increase the human resources package for the 1,100 miners by approximately \$50 million to over \$160 million in total. By any standard, this is a significant amount of money.

Honourable senators, the privatization of Devco's operations and the closure of the Phalen mine will have an impact not only on the miners and their families but on the community as a whole. This was clearly recognized by the government when it announced that, in addition to the human resources package to which I have just referred, there would be \$68 million in federal funds for economic development in Cape Breton. These funds, of course, were in addition to the normal government funds utilized for the purposes of economic development. Specifically, this is in addition to what has already been provided by the Atlantic Canada Opportunities Agency and by Enterprise Cape Breton Corporation. In fact, since 1967, ACOA, ECBC, and Devco's former industrial development division have received more than \$500 million from the federal treasury for economic development purposes in Cape Breton. I have not referred to programs such as those offered by Human Resources Development Canada which also has made significant commitment over the years to economic development on the Island of Cape Breton.

The purpose of the new economic development fund, \$68 million, which has been augmented by \$12 million from the provincial government of Nova Scotia, for a total of \$80 million, is to promote and invest in long-term, sustainable economic growth. It will encourage and enable the people of Cape Breton to look into the future with some measure of confidence in the knowledge that they are not making the journey alone and that

the federal government will be there with them, just as it has been in the past.

To ensure that this fund will be something more than Ottawa imposing its own views of economic development onto the people of Cape Breton, extensive public consultations were held late last year across the island. Two hundred and fourteen presentations and 210 written submissions were made to a consultative panel which, by the way, included our own former colleague, Senator Peggy Butts. The panel's report, which was released earlier this year, shows that the people of Cape Breton are not lacking in either confidence or ideas for the future.

In my view, that confidence is not misplaced. Just this past March, with an investment of \$7 million from the economic development fund, Electronic Data Systems announced that it would be establishing a new customer service centre in Sydney that would create up to 900 new jobs. The process of constructing the facility and hiring the staff is going on even as we speak.

• (1520)

Honourable senators, this is an example of a very productive return on government investment for the people of Cape Breton and for the economy as a whole. A \$7-million investment from the economic development fund leveraged an additional \$25 million in funds that will result in the creation of over 900 jobs in a region of the country that needs them badly.

Though I have emphasized in my remarks the human resources package for Devco employees and the economic development fund, this is not to say that coal mining will cease in Cape Breton. It will have a future, and approximately 500 people will have employment in a new and reinvigorated coal industry. The industry will not be as large as it was, it will not play the central role in the economy it once did, and the government will not own it. The coal industry will, however, for the first time in many decades, be viable and continue to provide ongoing employment.

In June of last year, Devco hired BMO Nesbitt Burns Incorporated as its financial advisor to assist in the privatization process. Nesbitt Burns has held public information meetings, consulted with community and stakeholder groups, and evaluated proposals submitted by prospective purchasers of Devco. The privatization process is now approaching its final stage, and any final agreement of purchase and sale must be approved by Devco's board of directors and the federal government. However, without the authority contained in Bill C-11, there can be no sale.

Honourable senators, it is time to take the uncertainty out of the equation so that the employees of Devco and their families can get on with their lives. To do that, we must pass Bill C-11, which is an important part of a balanced approach for Cape Breton. With this bill, we will be turning a page and moving into the future. I am confident that the people of Cape Breton are ready for the challenge.

Hon. Senators: Hear, hear!

Hon. John Buchanan: Honourable senators, I will spend a little time debating this matter today and then adjourn the debate until tomorrow in order to review some of the reports and to also review the remarks of the Leader of the Government in the Senate. I will then confer with other people, and I believe the Leader of the Government knows who I mean.

Let's not hold anything back here. There is a significant amount of interest in this bill in Cape Breton. There is a significant amount of interest throughout the media in Cape Breton. The Leader of the Government in the Senate knows that just about every media outlet in Cape Breton has been calling about this bill; therefore, there is a lot of interest in the bill.

I have no difficulty in agreeing with Senator Boudreau that Cape Bretoners are confident, intelligent, hard-working, and always have been. The minister is a Cape Bretoner, I am a Cape Bretoner, and we both understand and appreciate that fact. However, I oppose some features of this bill.

First, coal mining has been an integral part of the economy of industrial Cape Breton since the 1700s. There are honourable senators in this chamber who understand and appreciate that many senators would not be their positions today if it had not been for the coal industry. Senator Graham is well aware of that, as am I.

My grandfathers were miners in the old Port Morien mine, Dominion 1-A, in the Caledonia colliery, and my father worked for the coal company from when he was a teenager until his death. Therefore, I am aware of the fact that the economy of Cape Breton through the years tended to be either up or down according to the coal industry and the steel industry.

Left us not be naive. All honourable senators know that the coal industry over the last number of years has diminished. A number of years ago, 14,000 men were employed in the coal mines of Cape Breton. Over the years, through new technology, retirements, and coal markets, that number has been reduced substantially to a point where today we have approximately 1,200 people employed in the industry, and that number is being reduced. That same situation applies to the steel industry. We who grew up near those two industries can understand that fact. It is difficult to recall what they were and compare it to what they are today, but it is understandable.

If, as the Leader of the Government said, coal mining will continue in Cape Breton, that is fine. However, the minister also says that there will be a new vista of coal mining opening in Cape Breton without defining that new vista. The new vista of coal mining is certainly not the Prince colliery, which has been in operation for years. Its longevity is something in the range of maybe 12 to 15 years or a little longer.

Honourable senators, I tend to be careful in the use of the word "longevity" because we heard the Devco officials just a few years ago tell us that the longevity of the Phalen colliery was anywhere from 12 to 20 years, which was reduced to 15 years

and then to 10 years. Suddenly, its longevity was only three years, and it closed completely a little over a year ago.

Honourable senators, no new vista for coal mining in Cape Breton exists under this particular bill. What is in this bill is the plan for the closure of Devco and the privatization of its assets. I will not object to that. Privatization is coming and has been for years. However, I do object to the treatment of the existing miners.

Honourable senators, I know the Devco act well. I was in the Nova Scotia legislature in 1967-68 when the Devco act was introduced. It was mirror legislation. For those senators who do not know, the Devco act was primarily brought into existence by Allan J. MacEachen, one of our former senators. He pushed for the Devco bill. One of Devco's first employees, Senator Graham, is sitting right across from me today. Thus, we understand the necessity of Devco. I watched the Devco act pass through our legislature when the coal mining interests of Cape Breton were to be taken over by the federal government through the Cape Breton Development Corporation. The coal mines in Inverness and the mainland were to be the responsibility of the federal government, and the steel industry was to be the responsibility of the provincial government. That was the genesis of the entire situation.

Honourable senators, it is interesting to note that the Cape Breton Development Corporation was founded at a time when the coal industry was going downhill. It was moving out. Markets were not as good as they had been for coal, and all of a sudden, as honourable senators will recall, the price of oil shot up substantially throughout the 1970s.

• (1530)

The provincial government of the day looked at it and rightly said that it was ridiculous as the price of electricity was going through the roof. As a member of the opposition, I found it pleasant in a political sense. However, it certainly was not pleasant for the people of Nova Scotia, who had to pay higher rates of electricity because of the escalation of the cost of oil. We burned oil then, and not so much coal.

The opening of four new coal-generating plants and the refurbishing of a new plant in Trenton reversed that situation. Through those actions, we reached the point where 80 per cent of our electricity was generated from coal. The new Point Aconi, which was one of the finest generating plants in the world, and still is today, is also part of that development. It is a fluidized bed plant that reduces SO₂ by 90 per cent.

Through the 1970s and 1980s, we were generating 80 per cent of our electricity from coal. Thus, the Cape Breton Development Corporation had to change its direction from closing coal mines, which they still were doing and rightly so, to opening new coal mines — Lingan, Phalen, Point Aconi and others. More coal was needed to fire up the boilers of the Nova Scotia Power Corporation. Devco entered into long-term contracts with the power corporation.

Today we find ourselves with a strange situation. If we had good thermal coal that could be mined in Cape Breton of a quality required by the power corporation, I would be the first one to say that that means the end of the coal industry of Nova Scotia. It could not continue any longer. However, that is not the case.

Honourable senators, we must put this situation in perspective. First, we do have men in Cape Breton who are expert miners. They know their trade. They know the mining industry. In coal mining circles throughout the world, Cape Breton miners are known as the best to be found anywhere in this world. We have many good miners. Second, do we have the coal? Refer to any report from any company including Montreal Engineering, Kilbourne Engineering, and the Nesbitt Thompson engineering report. All of those reports say that we do have the coal. There are millions of tonnes of coal that have never been touched. Most of that coal is in the harbour seam of the Sydney coal fields off the Donkin-Port Morien area.

Honourable senators, I know about those. In order to push forward the new mine in 1979, the provincial government of the day put in \$5 million to bring drill ships up from the United States to drill bore holes, delineate the seams of coal, and to bring up some of the coal to be assessed. We found that some of the coal was excellent thermal coal, and some was excellent metallurgical coal.

The scene was set to open a new coal mine in Cape Breton, the first since the Lingan and Phalen collieries. In 1980, we had drilled the drill holes, had found the coal, and had delineated the location of the coal seams through expert people from Kilbourne Engineering and from the great mining engineers of Devco — people like Steve Farrell and Dr. Bill Shaw of Antigonish, who probably know the Sydney coal field better than any other person.

It was ready to go. It was started by Allan J. MacEachen. Allan J. MacEachen and I met on many occasions. After he returned to government in 1980, he was determined that the new Donkin mine should proceed. Everything was in place.

Between the early 1980s and the late 1980s, the two tunnels were driven. Coal was taken out and assessed. It was assessed in the United States, it was assessed by Devco, and it was assessed in other areas. It was proven to be good thermal coal with a mixture of metallurgical coal, which made it better for thermal purposes. It was acceptable to the Nova Scotia Power Corporation. Some \$85 million was spent to develop the two tunnels. Keep in mind that those tunnels are there today. Those tunnels are at the coal face, ready to go.

Many reports say that it will cost \$400 million to develop Donkin. That is a lot of nonsense. Kilbourne Engineering, in the mid-1980s, set the levels of production. That mine could be brought into fruition and completion for \$100 million, for about half a million tonnes of coal. An investment of \$140 million would be the equivalent of about one million tonnes of coal.

Senator Graham was on the committee when we looked through those figures.

Why am I talking about a new coal mine? The Nova Scotia Power Corporation uses about 2.5 million to 3 million tonnes of coal a year in its seven generating plants. From where would the coal come? This is the nub of this bill.

The pensions and the severance issues are important. However, it is probable that the Nova Scotia Power Corporation will buy coal from Columbia and from Hampton Roads in Virginia where they stock pile coal from Virginia, Pennsylvania, and Michigan to be shipped out. That coal will be coming into the Sydney coal peers to fire up the boilers of the Cape Breton thermal generating plants. Yet, we have our own coal right there ready to be mined. Why not mine it? The tunnels are there.

The problem is that we are being asked to pass a bill, and we do not know what will come after the bill.

Senator Taylor: Privatization.

Senator Buchanan: I have no problem with that. The honourable senator is a mining engineer, was on the committee and should know better.

We are being asked to vote on the bill blindly. We do not know what will happen with the coal contract between the Cape Breton Development Corporation and the Nova Scotia Power Corporation.

The Nesbitt Burns report says that the major assets available to interested parties who want to buy Devco are in the Prince colliery. That is absolutely right. The Donkin mine site and resource block is full of millions of tonnes of coal.

Honourable senators, we must keep in mind that the Government of Nova Scotia would need to approve any sale of assets before they could be transferred. I understand that some people here in Ottawa are starting to say that the province does not own those assets. The province does own them, and it has been proven.

The province owns the Donkin mine site and resource block, the railway and railway maintenance centres, the deep water port, the coal preparation plant of Victoria Junction, the lifting and banking centre, and the central maintenance facility. The Nesbitt Burns report lists investment highlights and goes on to describe the long-term supply agreement with Nova Scotia Power Corporation.

• (1540)

What does that mean? It means that the 47 million tonnes of coal reserves at Prince and significant additional coal resources at Donkin are for sale. If an American company located in Florida were interested in buying all of these assets, my first question would be, "How many coal mines do they now operate?" I do not think they operate coal mines. Perhaps they do, but I do not think so. I think they are coal brokers.

A businessman looking at all these assets — and they will go for fire sale prices, there is no question about that — will say, "Here is this sweet Prince colliery. It is operating and producing coal. In addition, here is a long-term exclusive contract with the Nova Scotia Power Corporation to sell coal to them." How much coal? About two thirds of the requirements of the power corporation will be there for this new owner to supply.

Will the new owner develop the Cape Breton coal to fulfil those terms, or will they accept coal from existing coal stocks that they have in Hampton Roads, Virginia, Colombia, or somewhere else in South America? Will they be carrying coal to Cape Breton when we have all kinds of coal there now. Is there anyone in Cape Breton who will develop the new coal mine and use the \$80 million that has already been spent? Yes. There is a group called Donkin Resources Limited, which is a private company made up of confident Cape Bretoners in the coal industry. There are coal engineers, coal mining engineers, geologists and business people from Cape Breton. They are ready to go. I have spoken to them every week or two for the last year.

Honourable senators, do you know what they need? They have to be sure that they will get the coal contract with the Nova Scotia Power Corporation. Businessmen here know that. You will not lend money or have a bank lend you money unless you have the security of something. That security is the long-term supply agreement with Nova Scotia Power Corporation, which is set out in Nesbitt Burns' report.

If there were no coal and if there were no requirement for it, if it were coming to an end, and it was decided not to subsidize the situation any longer, fine. However, we have not just a few million tonnes but upwards of 47 million tonnes in Prince and up to 1 billion tonnes in the Sydney coalfields in the harbour seam. That is a lot of coal.

I ask the Leader of the Government in the Senate: Would it not be better to know who the buyer is and what the intention of the buyer is with respect to the coal in the ground in Cape Breton? Will they mine it? If so, fine. Even if it is a company coming from outside, that is fine with me. If they can do it and develop our own coal mines in Cape Breton and supply our own Nova Scotia Power Corporation, then that is fine. I do not know that, though. I am not about to vote for something which is totally unknown. What I do know is that there is a group out there which is ready to mine the coal in the Sydney coalfields at the harbour seam.

The other problem I have concerns the 900 miners. Someone said to me the other day in Halifax, "My goodness, why are they talking about the miners being treated miserably? I understand hundreds of them have run to the Devco offices in Sydney and Glace Bay saying that they want the severance." That is true. Some 404 miners are eligible for severance. Some of them will receive \$20,000, others \$50,000, while still others will receive up to \$70,000. However, the tax will come off that. That is all right; it happens. After taxes, it will probably amount to one year's pay. For others, it will not equal a year's pay. What are they to do after that?

The Leader of the Government in the Senate and the leaders in the House of Commons say, "Well, we will retrain them." I have gone through this before. The provincial government has gone through it, too. They will retrain coal miners in Cape Breton. What they will do is give them jobs in the call centres. They are talking about taking a 48-, 49-, 50-year-old miner who has been working in the coal mines for 20 to 24 years, putting a headset on him and giving him work in a call centre. Come on, honourable senators, let us be realistic. They probably would do it; but I understand there are thousands of others who have already applied for those jobs.

They say, "Second, we will try train them to be carpenters and plumbers." What will they do? I have not seen too many construction cranes on the skylines of Glace Bay, New Waterford, Sydney Mines, North Sydney or Sydney. I do know that the coal is in the ground and it can be mined. They are able to mine coal. Someone says, "Why would they want to go underground?" That is their life. That is what they have done, and that is what they do. They are coal miners. It irks me when I hear people from Toronto say, "Why would those coal miners want to go down in the earth to mine coal?" One of the reasons is they do not work on Bay Street. That is what they do. They want to work in the coal mines when the coal is there.

There must be a better arrangement for those men who will be out in the cold. There has been talk about the 500 men who will operate the Prince mine. For how long will they operate it? What about the 400 men who after six to eight months will have nothing? They have no pension. They will have employment insurance for a period of time and that is it.

A section of the legislation which pertains to Devco, one which everyone seems to have forgotten, states that before closing, or substantially reducing the production of coal from any coal mine operated, the corporation will ensure that all reasonable measures are adopted by the corporation, either alone or in conjunction with the Government of Canada, Nova Scotia or any other agency, to reduce as far as possible any unemployment or economic hardship that can be expected to result from the closing or reduction in production.

Honourable senators, I shall have more to say about this bill tomorrow. Therefore, I ask that debate be adjourned in my name.

Hon. John G. Bryden: Honourable senators, I have enjoyed the amount of brown sugar that we have already got from the honourable senator. It is my understanding that on debate a senator has 45 minutes in reply. I assume that the clock was running. What is left of the honourable senator's 45 minutes?

Senator Buchanan: I only spoke for about 10 minutes!

Senator Bryden: It sounded more like 50.

My question is this: Is it legitimate for an honourable senator to say, "I will adjourn the debate and talk tomorrow on the same matter"? Can that honourable senator then expect to speak for 45 minutes tomorrow?

The Hon. the Speaker *pro tempore*: Honourable senators, in answer to the question raised by Senator Bryden, the Honourable Senator Buchanan spoke for 27 minutes. Therefore, he still has 18 minutes left which he may use tomorrow.

On motion of Senator Buchanan, debate adjourned.

• (1550)

**INCOME TAX ACT
EXCISE TAX ACT
BUDGET IMPLEMENTATION ACT, 1999**

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Marie-P. Poulin moved the second reading of Bill C-25, to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999.

She said: Honourable senators, I appreciate the opportunity to speak today at second reading of Bill C-25, the 1999 income tax amendments act. I realize, of course, that budget 2000 was brought down in February. The measures in that budget, as honourable senators know, will be contained in separate legislation.

Most of the measures in Bill C-25 were announced in the 1999 budget in three non-budget measures. All measures in this bill deal with reducing the tax burden on Canadians and improving the operation and fairness of the tax system. Before discussing them in detail, I wish to take a few moments to set this legislation in context.

In designing changes to the tax system, the government has always been guided by its four fundamentals of tax policy. First, our approach to tax relief must be fair. Second, our initial focus must be on personal income taxes where the burden is greatest and where Canada wishes to readjust with other countries. Third, Canada must have an internationally competitive business tax system. Fourth, tax relief must not be financed with borrowed money.

Our first four budgets, those of 1994, 1995, 1996 and 1997, provided targeted tax relief aimed at students, charities, persons with disabilities, and children of parents with low incomes, areas where relief would be most beneficial.

With the deficit eliminated in 1997-98, the 1998 budget began providing broad-based relief, again starting with those most in need, low- and middle-income Canadians. The 1999 budget builds on the tax reductions introduced in 1998. Both provided substantial tax relief for individuals and Canadians with families. Together, the 1997, 1998 and 1999 budgets reduce the income tax burden of Canadians by some 10 per cent, and we are going further. Combined with the measures that were announced in the 2000 budget, annual personal income tax reductions will total 22 per cent by 2004-05. As promised by the Minister of Finance in his fall update last October, the 2000 budget set out a five-year

tax reduction plan, a plan similar to that with which the government tackled the deficit.

Briefly, the five-year tax relief plan indexes the tax system, reduces the middle tax rate, and cuts taxes by at least \$58 billion by 2004, an average annual tax cut of 15 per cent, with even greater relief for families with children. However, as I just indicated, these measures will be introduced in another bill.

Today, we are dealing with measures from the 1999 budget, and I wish to turn now to the specific measures contained in this bill. Honourable senators will quickly see how these measures fall in line with our commitment to both tax relief and tax fairness.

[Translation]

Honourable senators, this bill includes three general tax relief measures, relating to personal income tax.

First of all, the bill raises the amount of income on which Canadians do not have to pay tax. Once again, the additional amount announced in the 2000 budget will be debated separately.

Second, the basic personal supplementary tax credit for low income people included in the 1998 budget was extended to everyone and raised \$175. These two measures mean that all taxpayers will have a basic tax credit that allows them to earn up to \$7,131 tax-free, an increase of \$675 over 1997.

[English]

Third, the bill eliminates the three per cent general surtax for all taxpayers. Once accounts were balanced, the 1998 budget provided for the elimination of this surtax for taxpayers earning less than \$50,000 a year, and its reduction in the case of those earning between \$50,000 and \$65,000 annually. This surtax is now totally abolished. Subject to this bill's passing Royal Assent, these measures took effect on July 1, 1999. Thanks to measures passed in the 1998 and 1999 budgets, some 600,000 Canadians have been removed from the tax rolls.

Furthermore, taxes have been reduced for all of Canada's 15.7 million taxpayers, with low income taxpayers benefiting the most. For example, a typical one income family with four children and an income of \$30,000 or less annually will not pay net income tax on their income, whereas such a family earning \$40,000 annually will enjoy a 15 per cent reduction in federal income tax.

Honourable senators, one of the many measures of this bill intended to improve equity in the tax system concerns the sharing of income with minor children.

Income is shared when an individual with a high income allocates some of his or her income to someone with a low income, generally someone close, in order to avoid tax. In most cases, only people earning high incomes with a dependent and certain types of income benefit fiscally from income sharing.

However, a tax system that allows certain taxpayers to share their incomes through a business structure while denying the same thing to others is unfair.

Accordingly, to increase the equity and integrity of our tax system, there will be a special tax intended specifically for the structures designed for the sharing of income with minors. Individuals 17 years of age or less will have to pay this special tax on taxable dividends and other benefits attributable to stocks not listed on Canadian and foreign markets, which they receive from a trust or a partnership.

In addition, the income they receive from a partnership or a trust and drawn from a firm operated by a relative will also be subject to this special tax. As a tax equity measure as well, Bill C-25 also deals with the application of income tax to retroactive lump sum payments on which individuals must pay tax in the year they receive them, even though these payments may in large measure apply to previous years.

Because of the progressive rate structure of the income tax system, the tax payable on these payments can be appreciably higher than it would have been if payments had been staggered and taxed upon receipt. Those who receive eligible retroactive lump sum payments of \$3,000 or more will be able to calculate the tax under a special relief mechanism.

• (1600)

This special relief mechanism will apply to certain office or employment income, superannuation or pension benefits, spousal or taxable child support arrears and EI benefits.

To improve the fairness of our tax system, Bill C-25 also changes the way income tax applies to Hutterite colonies — which own property on a collective basis and typically carry on farming and related businesses. For income tax purposes, these Hutterite colonies qualify as communal organizations and are subject to section 143 of the Income Tax Act.

However, for communal organizations, the earned income is allocated to only one designated spouse per family, while wages and salaries paid to another spouse employed in farming and other businesses are tax deductible. In order to maintain a roughly equivalent level of taxation on income earned by Hutterite colonies and other communal organizations, the income will now be allocated to both spouses in a family.

Again, to ensure tax fairness, Bill C-25 also deals with misrepresentations by third parties. As honourable senators know, penalties are imposed when taxpayers attempt to evade payment of their fair share of taxes through fiscal misrepresentation. However, there is no specific rule for assessing the application of penalties to individuals who make false statements regarding the fiscal obligations of another taxpayer.

The bill introduces two new civil penalties applicable to third parties who make false statements that could be used for tax purposes. These changes stem from various recommendations

made by the auditor general, the public accounts committee and the technical committee on business taxation. One concerns tax shelters and other tax planning arrangements, while the other concerns advising or participating in a false tax filing.

A culpable conduct test, consistent with the types of conduct which the courts have in the past applied civil penalties to taxpayers under the tax law, will be instituted. This test will apply to conduct which is tantamount to intentional conduct, shows an indifference as to whether the tax law is complied with, or demonstrates a wilful, reckless or wanton disregard of the law. The bill also provides a reliance on good faith exception to the culpable conduct standard. However, this exception will not apply to persons who promote or sell tax shelter arrangements.

In addition, at its headquarters, the Canada Customs and Revenue Agency will do a review before penalties are assessed on third parties. The agency will also seek the opinion of the private sector when drawing up guidelines with respect to civil penalties applied to third parties.

The next tax equity measure I will address concerns the tax situation which arises when the value of a registered retirement savings plan, or RRSP as we know it, or of a registered retirement income fund, or RRIF as we know it, is included in the income of an individual for the year of his death.

This inclusion in income is offset when the RRSP or RRIF is left to a surviving spouse, or to dependant children or grandchildren, if there is no surviving spouse. In such cases, distributions must be included in the beneficiary's income. Mechanisms still exist, however, that have allowed spouses or minor or disabled children to defer the tax on these distributions.

The 1999 budget deals with the situation where RRSPs or RRIFs are left to dependant children, even if there is a surviving spouse. The children, and not the estate, will now be responsible for reporting this income. This measure is designed to help dependant children at the time of a parent's death, since the tax rates for dependant children are not very high.

Honourable senators, tax relief for disabled Canadians represents an ongoing commitment of our government, and the 1999 budget continues the process of providing additional assistance.

The tax credit for medical expenses will be extended so as to cover the cost of group home care for seriously disabled individuals, therapy for such individuals, and tutoring for those with learning disabilities. In addition, audio books for individuals with perceptual disorders who are enrolled in educational institutions will be added to the list of material qualifying for a tax credit in the case of those who are disabled.

Still relating to tax credits, corporations producing electrical energy or steam to be used to generate electricity, will now be eligible for the manufacturing and processing tax credit. This will help the electricity generating sector to be competitive, particularly in light of the changes and restructuring currently taking place in North America.

Honourable senators, Bill C-25 also remedies one other tax anomaly: underpayments or overpayments of corporate taxes. Corporations with complex returns often find themselves with new assessments simultaneously, covering several taxation years, as well as with income and expenditures that are deferred from one taxation year to another.

Under the present rules, interest on corporate tax arrears for a given taxation year may be calculated at the same time as interest on an overpayment of an equal amount for a different taxation year. Since interest on refunds is taxable, while interest on arrears is not deductible, this can result in a net cost after taxes for the corporation, and this is complicated by the different interest rates for refunds and arrears.

In order to remedy this situation, in future there will be a mechanism whereby a corporation could offset income tax refund amounts, which are taxable, against income tax arrears amounts, which are non-deductible, in calculating interest.

Honourable senators, this bill includes one other measure designed to assist the Canadian investment service sector in holding its own against international competition. Suppliers of Canadian services have reportedly had trouble attracting foreign clients because the latter fear that non-residents would have to be taxed in Canada under our tax rules. Under a new rule, and provided certain conditions are met, a non-resident investment fund would not be considered to be carrying on business in Canada solely by reason of engaging a Canadian firm to provide financial management-related services.

Finally, there are two other budget-related measures in this bill that relate to Labour-Sponsored Venture Risk Capital Corporations, LSVCCs, and the tax supplement applicable to major deposit institutions.

• (1610)

The purpose of the measures contained in this bill is to encourage labour sponsored venture capital corporations, LSVCCs, to focus more on small business investments and to clarify the rules that apply when a LSVCC is part of a merger or other corporate restructuring.

Bill C-25 also extends to October 31, 2000, the 12 per cent capital tax surcharge under Part IV of the Income Tax Act.

[English]

Honourable senators, there are three measures contained in this bill that were not part of the 1999 budget. With the passage of this bill, the federal government's tax-sharing agreements with self-governing Yukon First Nations will be given effect. In particular, this means that the federal government will then vacate 75 per cent of its income tax room on settlement lands for the Yukon First Nations governments to occupy.

Another measure exempts the income of the trust established by the federal provincial and territorial governments to provide compensation to hepatitis C victims from income tax.

The third non-budget measure deals with the treatment of demutualization, which is a process enabling mutual insurance companies owned by their voting policyholders to convert to

ordinary stock companies owned by their shareholders. Cash demutualization benefits will be treated as dividends eligible for the dividend tax credit. There will be no immediate tax benefit for a policyholder receiving a share as a demutualization, but there will be a capital gain when the share is sold.

Honourable senators, each measure contained in this bill improves the fairness and operation of our Canadian tax system. Each measure addresses an inequity, inconsistency or discrepancy in the tax system. There are no contentious measures in this bill. I urge all senators to accord this bill speedy passage so that we can move on to the additional tax relief measures that were announced in the 2000 budget.

Some Hon. Senators: Hear, hear!

On motion of Senator Kinsella, for Senator Eyton, debate adjourned.

MODERNIZATION OF BENEFITS AND OBLIGATIONS BILL

THIRD READING—DEBATE ADJOURNED

Hon. Lucie Pépin moved the third reading of Bill C-23, to modernize the Statutes of Canada in relation to benefits and obligations.

She said: Honourable senators, it is with the same pride that I had on May 2, when I made my speech at second reading, that I rise today to defend at third reading Bill C-23, to modernize the Statutes of Canada in relation to benefits and obligations.

It is not my intention to repeat word for word the arguments that I put forward at second reading. My convictions remain the same. We must pass Bill C-23 for reasons of justice, equality among people, tolerance and openness to diversity, as well as respect for each other. This is what fairness is about.

[Translation]

The act to modernize the Statutes of Canada in relation to benefits and obligations applies the same regime of benefits and obligations to common-law partners of the opposite sex and of the same sex. Honourable senators, I stress the fact that, with Bill C-23, same-sex couples may be getting benefits, but they are also having obligations imposed on them. Too many interveners in this debate have seen only the benefits and neglected to consider the fact that same-sex couples will now have obligations.

It is the duty of the government to guarantee the fundamental rights and freedoms of all Canadians; it must honour the provisions of the Charter of Rights and Freedoms, as the courts have held, in *Miron v. Trudel* and *M. v. H.* The first decision established that the government had to afford the same treatment to married and common-law couples equally by giving them the same benefits and imposing on them the same obligations. In *M. v. H.*, the Supreme Court of Canada concluded that governments had to treat opposite sex couples and same-sex couples equally. This is what Bill C-23 does, namely, first, extend to common-law partners of the opposite sex or not certain benefits and obligations that apply currently only to married couples, and, second, extend to common-law partners of the

same sex the benefits and obligations that apply currently only to common-law partners of the opposite sex.

Today, I propose to update the main arguments the witnesses put forward before the committee on legal and constitutional affairs. This exercise will help us understand that Bill C-23 must be passed in a society that values equality, a value inscribed in the heart of our Charter of Rights and Freedoms, an inescapable fact of Canada's political culture.

Before I go further, however, honourable senators, I must tell you something. When I examined the various briefs submitted to us on the Standing Senate Committee on Legal and Constitutional Affairs, I felt I was facing a bit of a backlash and it made me think of what historians now call the "Persons Case". In the second half of the 1920s, the question was raised as to whether women were persons under the meaning of the British North America Act, and consequently, whether it was the intent of the Fathers of Confederation that women should ever sit in the Senate. The Supreme Court of Canada at first said no, then the legal committee of the Privy Council in London contended the opposite. All that to say, honourable senators, that, in committee, some witnesses doubted whether homosexuals were entitled to the respect due all human beings. I find that incredible!

On May 2, in this chamber, I stated my disagreement with the rule of interpretation providing that, and I quote:

...the amendments made by this Act do not affect the meaning of the word "marriage", that is, the lawful union of one man and one woman to the exclusion of all others.

I then argued — and I repeat my position today — that this rule was completely unnecessary since, first of all, Bill C-23 has nothing to do with marriage and, second, the meaning of marriage is clear in law.

In committee, a number of witnesses — including the Coalition gaie et lesbienne du Québec and the Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe, the Canadian Labour Congress, EGALÉ, the Professional Institute of the Public Service of Canada, and Professor Winifred H. Holland — also concluded that the rule of interpretation was pointless. What is more, according to Professor Holland, one perverse effect of the rule would be to suggest, and I quote from her brief:

...that there is a difference between marriage and a common-law relationship: these relationships are not truly similar, and the latter is less deserving of respect. They are not truly equivalent.

A number of us are in complete agreement with Professor Holland: the rule of interpretation damages the fragile reasonable

compromise that Bill C-23 made possible. While, at the outset, a sincere desire to include underlay Bill C-23, the rule of interpretation brushes this noble intention aside by imposing a different level of recognition and value: in short, by again dragging the issue of exclusion, which should have no place in modern society, into the legislative arena. As the Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe pointed out, the rule of interpretation, and I quote:

...reinforces the exclusion of gays and lesbians and turns it into a symbol.

• (1620)

I agree with EGALÉ, who felt that the rule of interpretation exposes Bill C-23 to constitutional challenge. Before long — in fact, it is already happening — gays and lesbians will be asking why marriage is reserved only for heterosexual couples, and the courts will have to decide the matter.

A number of witnesses called for the rule of interpretation to be abolished. One of them, a far from insignificant one, the Canadian Bar Association, said the following:

Integrating a definition of marriage into Bill C-23 is superfluous: it does not fit in with the purpose of the legislation and constitutes an invitation to further challenges on the inclusion of gay and lesbian couples in Canadian society.

I share that opinion, honourable senators. That said, I move on to an analysis of the key arguments presented by witnesses. Generally speaking, recognition of same-sex couples polarized witnesses into those opposed and those in favour. Each made reference to clearly different rationalities: the first justified their position based on precepts relating to what marriage and family ought to be, while the others referred to values such as equality, justice and openness to diversity.

A number of witnesses stating their opposition to Bill C-23 referred to the fear that it would be a death sentence for what we know now as the family. In their view, marriage involves one man and one woman, and particularly the possibility of having children. For a number of them, the Canadian Conference of Catholic Bishops among them, it was precisely this unique and distinct contribution of marriage to the stability of the family and the future of society that justifies maintaining the distinction between marriage and other types of relationships.

Along the same lines, some witnesses argued that children born and raised in a two parent heterosexual context, in which the parents were duly married, would have greater assurance of balance and success in life.

Honourable senators, I will not question these opinions. I shall simply quote Madam Justice L'Heureux-Dubé, who said the following in *Canada v. Mossop* [1993], and I quote:

It is possible to be pro-family without rejecting less traditional family forms. It is not anti-family to support protection for non-traditional families. The traditional family is not the only family form, and non-traditional family forms may equally advance true family values.

A document published in 1998 by Statistics Canada, entitled *Growing up with Mom and Dad? The Intricate Family Life Courses of Canadian Children*, revealed the diversity of Canadian families and, as the title of the document suggests, their complexity. In 1994-95, 76 per cent of children 11 years old or less lived in a family whose offspring were the biological or adopted children of the two members of the couple, 14.5 per cent were growing up in a single parent family headed by a woman, 1.1 per cent were growing up in a single parent family headed by a man and 6.1 per cent were in a rebuilt or complex family in which the two parents combined children born of different parents.

In short, the "traditional" family dominates the family universe in Canada, although other family structures are appearing now, which, in my opinion, deserve the same recognition and consideration by the government. The very positive effect of Bill C-23 is therefore to eliminate this archaic distinction between so-called "legitimate" and "illegitimate" children.

Honourable senators, to give you an idea of how lifestyles have changed in Canada and how, consequently, the family structure has diversified, I want to draw your attention to another very interesting change. During the eighties, the percentage of Canadian children who were born of married parents who had not lived together before went from 60 per cent in 1982-83 to less than 40 per cent ten years later.

Moreover, that reduction was not offset by another phenomenon, that of a man and a woman living together but deciding to get married before starting a family. The document concludes by saying:

Rather, it is the rejection of marriage as an institution which, after having affected the lives of couples, is now affecting the lives of families.

When we look at these figures, we can understand why some people are concerned and try by every possible means to preserve the so-called traditional family. Now, will this have to be done at the exclusion, if not denigration, of other lifestyles?

Honourable senators, allow me to quote Justice Iacobucci who said, in the *Egan* case, and I quote:

On a broader note, it eludes me how according same-sex couples the benefits flowing to opposite-sex couples in any way inhibits, dissuades or impedes the formation of heterosexual unions. Where is the threat?

Honourable senators, in committee we heard some very harsh comments on gays and lesbians, comments no person living in a free and democratic society thinks he or she will ever hear. These comments, some of which went so far as to associate homosexuality with incest and paedophilia, in contradiction with all statistical data, supported my conviction that it is imperative to pass Bill C-23. While it cannot be claimed that this bill will change mentalities, it will at least send a very clear message that everybody is equal before the federal state, regardless of sexual orientation.

In short, those who based their opposition to Bill C-23 on a somewhat rigid view of the family did so by rejecting the very values that underlie the Act to modernize the Statutes of Canada in relation to benefits and obligations: the equality of all before the law, tolerance and diversity, respect for the choices of others even if they are not the same as one's own.

Still in the camp of those opposed to Bill C-23, many insisted that the bill should apply to all relationships of dependency, such as a mother and daughter living together in a relationship of financial dependency. But what happens when the daughter decides to enter into a common-law relationship with a man or a woman, or to marry the love of her life? Will the new couple thus formed have to assume financial responsibility for the mother, through support payments, for instance? Will the mother's pension be based on the couple's income? And will this pension have to be reported in the couple's income? On the mother's death, will the couple receive her survivor's pension?

The issues surrounding relationships of economic dependency are important and complex. They have far-reaching consequences for individuals and for society as a whole. More extensive studies are needed in order to determine whether, in all cases or at least in which situations, familial relationships should be treated in the same way as those of married or common-law couples.

Far from preventing discussion of the issue of whether or not to recognize the nature and reality of many kinds of relationships of economic dependency, Bill C-23 will stimulate it. In fact, this reflection is already underway because the more general issue of relationships of dependency has been referred to a parliamentary committee for further consideration. But right now, one thing I think is certain is that there is a difference between marriage or a common-law relationship, on the one hand, and a relationship with another member of one's family, on the other. The implication is that it might not be possible to impose the obligations attaching to marriage and to common-law relationships on other relationships of dependency.

Indeed, while the benefits inherent to a dependant relationship would probably be welcomed in other types of dependant relationships, it is not sure that the legal obligations relating to marriage and common-law unions should be imposed on individuals with regard to the family members they are living with.

To conclude with the arguments against Bill C-23, some said that recognizing same-sex couples would be too costly for the public purse. Let us say, first, that according to the Department of Finance, the changes brought about by Bill C-23 will be financially neutral or nil. But above all, recognizing same-sex couples is a human rights issue, not a money issue.

• (1620)

To quote EGALÉ:

Discrimination is unacceptable in a free and diverse society, and equality is not for sale.

As stated by Claudine Ouellet, of the Gay and Lesbian Coalition of Quebec, gays and lesbians have always been full citizens when the time comes to pay taxes; it is only fair that this full citizenship be recognized when the time comes to access the benefit package provided to the public by the federal government.

I now come to the arguments presented by the many witnesses who welcomed Bill C-23, with varying degrees of reservations. The reservations expressed by several witnesses, as I mentioned at the beginning of my speech — had to do with the fact that there was no need for the rule of interpretation. I will not dwell on this now. However, this rule is a real accomplishment in the sense that it managed to displease both the opponents to Bill C-23 and its supporters.

Numerous witnesses supported the government's judgment saying that Bill C-23 was first and foremost a matter of fairness and equality. The government has a duty to see that its legislation reflects these two values. When extending benefits, the government has to look to see whether there are corresponding duties, and whether it would not be appropriate to impose obligations in order to ensure that there is fairness and equality. The Modernization of Benefits and Obligations Act is intended to apply the same set of benefits and obligations to common-law spouses whether they are of opposite sexes or the same sex. It goes further than that, however, because it makes it possible to bring the facts in line with the values, by putting an end to the inconsistency between the value of equality as expressed by section 15 of the Charter, on the one hand, and the numerous discriminatory provisions toward same-sex couples that were a part of a number of federal statutes until now, on the other.

That said, honourable senators, I cannot help but draw to your attention the fact that there are a number of ways of interpreting equality. On the one hand, some would say that equality consists in treating everyone in the same manner, regardless of who and what they are. That is the approach of equality of treatment, the one that is adopted in Bill C-23. The most obvious example of this is the goods and services tax. When a person buys something, he pays the same sales tax, whether he earns \$1,000 or \$100,000 a year. Of course the government has certain provisions to correct the inequality that this causes, for example

a partial refund of the GST to low income families. This understanding of equality does not take into account the fact that, in society, individuals are not equal because they do not benefit from the same living conditions. In that context, applying the same treatment to everyone cannot help but reproduce inequality in the guise of equality.

Another understanding of what is known as substantive equality involves taking into account the fact that, at the outset, people do not unfortunately enjoy the same conditions in society and developing strategies to help them achieve this equality. The best example of this is positive action: on the assumption that there exists an inequality to be corrected, the aim of positive action is to treat entities differently so that, in the end, equality may be achieved. Pay equity uses to the same rationale.

With respect to social sexual relationships, the government has understood that and regularly submits its decisions to a comparative analysis between the sexes. Does a decision have the same consequences on women and on men? Most of the time the answer is no. Why not do the same for heterosexuals and homosexuals? The Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe made a proposal in this regard, and I quote:

...that the officials of the departments and government agencies concerned with applying the legislative changes for the legal recognition of same-sex couples be given proper training on heterosexism and lesbian and gay realities in order to better serve this new clientele.

• (1640)

We need only think of the obligation involved in claiming a GST refund of revealing the identity of one's partner. Naturally, all the information given to Revenue Canada is confidential. We all know that leaks are always a possibility, and, in certain circumstances, they may have very negative consequences. It is in this perspective that the Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe recommended that the federal government apply the legislative changes arising from Bill C-23 with, and I quote:

...flexibility, discretion and discernment...knowing that the revelation of one's sexual orientation may cause prejudice in certain circumstances.

I agree with this proposal. In a society that holds heterosexuality to be the norm, announcing that one's partner is of the opposite sex is a mark of conformity; saying that that partner is of the same sex might expose one to prejudices of all sorts. I will give you an example. Recently, I read in an article in *Le Devoir* that a social association for lesbians and gays had been formed at CFB Val Cartier in the Quebec City area. Although lesbians and gays are now allowed in the Canadian Forces, the person interviewed still wished to remain anonymous. This person also mentioned that the group had received all sorts of strange calls.

Canada claims to be an open, diverse and modern society. Allow me to say, honourable senators, that after all I have heard in the Standing Senate Committee on Legal and Constitutional Affairs, I now know that Canada also has certain pockets of resistance to homosexuality. I would even go so far as to say that there is localized homophobia in Canada. It is in response to this unfortunate state of affairs that I again share with you the proposal put forward by the Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe, which recommended, and I quote:

...that the federal government, in partnership with organizations defending the rights of gays and lesbians undertake a public education campaign to counter homophobia and discrimination with respect to gays and lesbians, particularly in the workplace.

I shall not repeat what I said on May 2 with respect to young people who try to commit suicide, and who sometimes succeed, when they realize they are homosexual. According to many of those who appeared before the Standing Senate Committee on Legal and Constitutional Affairs, Bill C-23 is a step in the right direction, because it sends a message that, before the federal government, all Canadians are equal, regardless of sexual orientation. You know as well as I, honourable senators, that although the legislation can help to change mentalities, this objective cannot be achieved without a public education campaign.

Honourable senators, at some time or another, you have all heard jokes about homosexuals — about women too, no doubt! Some argue that these jokes are harmless and that trying to eliminate them is nothing more than political correctness. Recently, Quebec took a look — a very timid one — at this issue in the course of a certain public debate on humour and homosexuality. It is to be hoped that this debate will continue, that it will pick up steam and that it will extend to other social minorities. What is certain is that a public information campaign is desirable in order to eliminate the continuing widespread prejudices against lesbians and gays.

As the Canadian Bar Association pointed out, Bill C-23 follows a growing tendency across the country to recognize in legislation gay and lesbian couples. Bill C-23 is not groundbreaking legislation. Many municipal and provincial governments, and also major companies, have already extended to their employees who are in a same-sex relation the benefits enjoyed by heterosexual employees. It is to be hoped, as many witnesses have said, that Bill C-23 will spur other private companies and municipal and provincial governments that have not already done so to recognize same-sex couples.

Bill C-23 is synonymous with progress. It is the result of the evolution of Canadian society and we already know that new challenges lie ahead. As noted by some witnesses, including the Canadian Bar Association, Bill C-23 leaves in the dark bisexuals and transsexuals who, before long, will also claim their right to equality. Those of you who are Liberals know that the young people in our party voted in favour of recognizing marriages between lesbians and gays. Some witnesses who testified before the parliamentary committee raised the issue of the right of lesbian and gay couples to adopt children. Before long, some will

raise the issue of lesbians and access to new reproductive technologies, which are still reserved for heterosexual couples. These are just a few of the challenges that the lawmakers will have to meet in the coming years.

Honourable senators, I am asking you to support Bill C-23. As I said at the beginning of my speech, this legislation must be passed for several reasons. First, it is a necessary measure to fight discrimination against lesbians and gays. It is also necessary for reasons of fairness: Homosexuals assume obligations, but they should also be entitled to the benefits provided by the Canadian state. It is necessary to pass Bill C-23, because it is a matter of fairness: Laws must comply with section 15 of our Charter. Finally, it is necessary to pass Bill C-23 as an expression of tolerance and openness to diversity, and respect for other people.

[English]

Hon. A. Raynell Andreychuk: Honourable senators, I wish to make a few comments with respect to Bill C-23. I do not question the need for this legislation. I think it is simply a question of justice to have had this bill. In fact, this bill should have been brought forward much earlier. The government should not have waited for the courts to rule. Once the issue of the extension of benefits to common-law relationships was recognized, it was only fair, just and legally binding that we move to recognize all common-law situations. I believe that is what Bill C-23 does.

I do not wish to belabour the point that I support the bill. However, I wish to make three comments about issues that have come up, particularly in the study of the bill before the Standing Senate Committee on Legal and Constitutional Affairs. The bill was supposed to be about same-sex benefits, but the introduction of clause 1.1, for the first time entrenching in a piece of legislation the definition of marriage, has made it somewhat political. Certainly, it is not good public policy. This issue inflamed both sides. Representatives of the gay community indicated that it was an invitation to a legal challenge, like waving a red flag in front of a bull. They were not happy with the inclusion of clause 1.1 in the bill, nor were those who wanted to uphold a more traditional definition of marriage.

Honourable senators, the minister came before us and indicated that this was not a bill about marriage and that it was not a bill to define, extend or change in any way the concept of marriage. If that were true, and if, in fact, the rest of the bill has nothing to do with marriage, one wonders why the government of the day would have chosen, as public policy, to have introduced clause 1.1. What it did was to bring in, through the back door, an issue that I believe is emotional and highly charged and that could only be properly brought forward by a government by way of separate legislation. If the government wished to do something with respect to marriage, it should have done so and it should have been done through the front door. In introducing clause 1.1, I do not know which constituency the government was trying to please or whether it was trying to muddy the waters by trying to appease both sides. What it has done is destroyed the chance of having a reasoned public debate and the chance for education, both of which are very important when we move into human and social concepts.

Both sides appearing before the committee were adamant in their positions, sometimes even intolerant of the other side's positions — perhaps one side more than the other. However, the government did not serve the public debate of social justice in Canada by adding clause 1.1 to the bill. It deflected the true meaning of justice with respect to the rest of the bill, and, in my opinion, inflamed the issue in a way that is counterproductive in our pluralistic society.

I can only say that if the Liberal Party is so adamant on this issue of changing the definition of marriage, they should do so through the front door and they should do it as a public policy issue separate from the issue of same-sex benefits.

I believe that Bill C-23 as originally drafted was adequate and fair and should have been left without the inclusion of clause 1.1. As many groups pointed out to us, that clause was added at a late hour when they could not comment on it because they had already testified before the committee in the other place. Placing the bill before us at this late hour of this session put us in an awkward position because to delay it any further would have jeopardized what this bill intends to accomplish.

If this government was interested in bringing Canadians together, in rationalizing our differences, in trying to find some way, through education and dialogue, to accommodate a fairer and more just position on the issues of marriage and homosexuality, it certainly chose a poor method by adding clause 1.1. This clause is not in keeping with the traditions of good Canadian legislative practice espoused by any party in the past.

Honourable senators, I truly regret that clause 1.1 was added to Bill C-23. In fact, I would have moved an amendment but for the fact that many groups said that because the bill came to us so late in our session, an amendment would have delayed the very just and fair provisions within Bill C-23 if it was returned to the House of Commons. I did not find sufficient support among colleagues to put the amendment, and consequently I did not.

I wish to raise two other points, both having to do with the aboriginal community. Again, in Bill C-23, we find that the Government of Canada has not lived up to its constitutional responsibility to consult the aboriginal community. Inserted in Bill C-23 are clauses 89 and 148, which will have Bill C-23 apply, first, to the Cree-Naskapi and, second, to the Indian Act.

While I think it is fair that same-sex benefits be uniformly applied across Canada, there is a constitutional requirement that the government consult with the aboriginal people before it moves on any issue. I have heard from the aboriginal community that they do want fairer benefits for their people and that they are not avoiding the Charter of Rights and Freedoms, but the Charter speaks of the customs, practices and traditions of the aboriginals that must be respected, as well as of equal opportunity for all people. It is disappointing, if not outright shocking, that the government would not have consulted with the Cree-Naskapi before introducing Bill C-23, nor with the aboriginal community and the chiefs' organizations before introducing the clause with respect to the Indian Act.

In our committee, honourable senators, the Department of Justice stated, quite frankly, that it was not until the bill was in

progress and reaching the Senate that any attempt to contact the aboriginal community seriously took place. It is to the credit of the Standing Senate Committee on Legal and Constitutional Affairs that it took the issue seriously. The chair, Senator Milne, wrote to the minister to indicate that this issue had to be resolved before we could proceed on those clauses. We received a letter from Minister Nault indicating that there would be full discussion with the Naskapi nation before the implementation of clause 89. That is not good enough. The Charter of Rights and Freedoms says that not only should they be consulted before any action is taken, but it should be taken into account.

• (1650)

Thankfully — perhaps thankfully for the government more than the aboriginal people — Senator Milne was able to get a letter from Minister McLellan. I will only quote from one part of her letter, where she says:

Thus, if after the regulations are discussed fully with the Naskapi Nation and the other affected Nations, no possible way can be found to draft those regulations in a manner which will satisfy the concerns of the communities and the Charter protections, without being inconsistent with the Agreements, then the Agreements would have to be amended, which of course would require the agreement of the parties. However, I continue to believe that there are ways of drafting regulations in connection with these amendments which can satisfy the concerns of the community in a manner that is consistent with the Agreements.

Based on the two letters the committee received, the committee's report tabled approval of Bill C-23 on the understanding that those two clauses, namely clauses 89 and 148, will not be implemented until the Charter is complied with.

Honourable senators, I have been in the Senate for seven years. Each and every time a bill affecting aboriginals comes forward, it is always in the late stages that the government hustles to say that they will consult with the aboriginal community and that they will take them into account in the regulations. Each time we are told that there was some error and that it will not happen again.

Honourable senators, I sat through the entire debate on the gun registration legislation, when there were not adequate consultations with the aboriginal community. We sat through Bill C-49 and were told that this would not happen again. Now we have Bill C-23 before us. With every bill that comes before us, it seems as though something goes on in the Ministry of Indian Affairs and Northern Development that causes these consultations not to take place. Is it a question of the Ministry of Justice? Is it a question of the Ministry of Indian Affairs and Northern Development? I do not know, but it is one government and one government only that must begin to take seriously its fiduciary responsibilities to aboriginals. It must live by the Charter and it must start consulting well in advance. This legislation did not come up suddenly; the government knew about it for a long time. In other words, there was ample opportunity to consult with the aboriginal community.

Having said that, I have consulted with the Cree-Naskapi, and they feel that they will once again accept the assurances of the government that it will not move without proper and adequate consultation. As I speak on this issue again, I trust that the government will understand that I, for one, will not pass another piece of legislation that comes before me that says "we will consult" with the government. I will only pass legislation that says "we have consulted." That is a small difference, but it is a fundamental difference to the aboriginal community.

In that vein also, I will put out as a warning the fact clause 148 of the bill touches on the Indian Act. Again, we had to raise the issue that the plight of aboriginal women is not being addressed, for whatever reasons. We were told after Bill C-49 that there would be a review of the issue of property and women's rights — everything that has been embedded in the Indian Act and requires consultation with the aboriginal community. I have yet to hear that the aboriginal community will not consult with the government. I would first need to know that the government has made attempts to consult. Again, we have been assured that Minister Nault has said — as did Minister Jane Stewart before him — that the government will start to address the issue of Charter implications in the Indian Act and that there will be a full study and consultation with the aboriginal community. I simply ask: How much longer do the aboriginal communities have to wait to get this matter sorted out? There has been a fundamental abridgement of the rights of aboriginal women and the rights of same-sex and common-law couples in aboriginal communities. These rights must be clarified. That can only be done jointly with the full cooperation and the initiative of the government. The government must take this seriously. These issues go on year after year, and I am in a position to say that seven years is long enough.

Honourable senators, I admire the aboriginal community for having waited much longer than seven years on this issue. These ancillary issues are fundamental issues that permeate Bill C-23 and so many other bills. I think it is good public policy that the government begin to address these issues in the aboriginal community. I hope that at least my intervention has some impact, and I thank the Standing Senate Committee on Legal and Constitutional Affairs for sharing my views on the importance of these issues. I hope that collectively we make an impact on this government to change its practices in this area.

Hon. Anne C. Cools: Honourable senators, in her remarks, Senator Andreychuk referred to a particular letter from the Minister of Justice. I believe she quoted from a part of it. Could she table the entire letter?

Senator Andreychuk: There are two letters: one from Minister Nault and one from Minister McLellan. I understood that they had been tabled along with the committee's report, but I have no difficulty, with the agreement of the Senate, to table them again.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted to table the letters?

Hon. Senators: Agreed.

On motion of Senator Cools, debated adjourned.

[Senator Andreychuk]

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

Hon. A. Raynell Andreychuk: Honourable senators, it is a distinct honour to speak to Bill C-16 at second reading. It is my intention, on behalf of the opposition, to highlight several areas of concern and deficiencies that senators may wish to debate as this legislation moves through the chamber.

Honourable senators, Bill C-16 replaces Bill C-63, which died on the Order Paper with prorogation last year. The committee in the other place heard many witnesses when studying Bill C-63. The majority of the committee in the other place took the position to hear only a few witnesses under Bill C-16. The Senate, without the benefit of a pre-study, will be dealing with this matter for the first time.

Honourable senators, Bill C-16 is entitled "An Act respecting Canadian citizenship." Although revisions to the Citizenship Act are timely, we must all be aware that this bill does little to address what Canadian citizenship means to the entire body politic of this country, not just to Canadians who are recent immigrants.

At the start of this millennium, we should seek to unite Canadians with a sense of pride about being Canadian. As I travel, those outside Canada identify us with the values and the security of the rule of law not found often in their own countries. They identify with what it is to be a Canadian.

• (1700)

Immigrants to this country have movingly talked of what it means to become a Canadian citizen and, yes, those of us born here count this gift of birth as a blessing.

Surely, an act respecting Canadian citizenship in the year 2000 requires a preamble and an embodiment of what it means to all of us to be a Canadian citizen. In our opinion, Bill C-16 is a demonstration of this government's failure to understand and define what Canadian citizenship should mean and does mean to over 31 million inhabitants of this great land.

The need to define this country was best realized by Joe Clark who referred to it as a "community of communities" in the early 1970s, a reference to the tremendous cultural geographic and linguistic diversity of Canada. Nearly 30 years later, no other definition or euphemism has captured the simplicity and the accuracy of this characterization, this bill included.

Contrary to the principle of "community of communities," this government seeks to philosophically homogenize the peoples of Canada through revision of citizenship legislation and through the tests used to determine who is granted citizenship status.

Bill C-16 seeks to draw ever more sharply the distinction between citizens born in Canada and those who emigrated to Canada or gained status as refugees. While there may be need to have a public policy debate to gain an understanding and consensus of how stringent the rules of entry should be for immigration, including refugee rules, this is not the same as the Canadian citizenship rules. Surely, there is a duty to treat all Canadian citizens equally before the law.

Due process is something that we as Canadians need and, indeed, have come to expect as part of being a Canadian. This issue is further compounded in perception because we have not yet seen the proposed revisions to the immigration and refugee legislation. Are the ills of entry — if they do exist — a function of immigration and refugee rules, practices and procedures, or are they a misuse of citizenship?

In December 1997, then minister of citizenship and immigration Lucienne Robillard commissioned a review of citizenship and immigration issues. Some of the very contentious proposals following that report were the employment of a new residency test for citizenship applicants, language requirements for citizenship eligibility, and stripping the quasi-judicial character from the citizenship-granting process. These propositions were hotly debated and now form the bedrock of this bill.

In some quarters, there is a feeling that it is too easy to get into Canada and too difficult to remove abuses. I reiterate: These are issues quite distinct from citizenship. If all Canadians are deemed equal in the eyes of the law, we must ensure that, with the implementation of this proposed legislation, we do not undermine the security and well-being of all who acquire citizenship other than by birth. If the normal rules of law do not apply, if the process appears politicized, if the full right to defend one's self does not exist, then the taint of suspicion and unease hangs over everyone who was not born here.

That is the most questionable element of Bill C-16. When one reads Bill C-16, looking for expediency and efficiency section by section, it seems fine, particularly if the mindset is that there is a perpetrator lurking out there. However, if you value citizenship and wish all to be treated equally, then one understands the unease and disappointment voiced on behalf of and by naturalized citizens.

Canada's treatment of naturalized citizens, not to mention immigrants and/or refugees, is checkered at best. Often we have welcomed them — such as the Vietnamese boat people, for example — but such has not always been the case. We need only remind ourselves of examples like the internment of Japanese citizens during the Second World War, of Ukrainians and others during the First World War, of the Chinese head tax, or of the turning back of the *S.S. St. Louis*.

I am sure you all have family or friends who have shared the wrenching stories of how people fitted into this country while maintaining the cultural heritage of their background. Some faced obstacles known to all immigrants. Some saw outright prejudice. All landed and lauded the Canadian approach of multiculturalism and not assimilation.

Honourable senators, perhaps the greatest flaw with this legislation is that it suggests that immigrants and recently sworn-in Canadians are the principal objects of this legislative change. To the contrary, it is our position that any legislation that seeks to redefine and clarify what Canadian citizenship means should aim to inculcate a citizenship definition that is all-encompassing and does not discriminate based on time of arrival to our shores. Indeed, the legislation, as is, does not advance the belief that citizenship legislation affects all Canadians, be they just off the boat, so to speak, or in Canada for six generations.

Recent immigrants to Canada have just as much right to acquisition of citizenship status as do our landed citizens. In this regard, there should be no distinction in this bill or in any other proposed legislation. To do so abrogates our moral, ethical and legislative obligation to enact laws which speak to all Canadians and not just some of them.

Clause 12 is commendable in that it states that a citizen, whether born in Canada or not, is entitled to all rights, powers and privileges and is subject to all the obligations, duties and liabilities to which a person who is a citizen at birth is entitled or subject and has the same status as that person.

I would have preferred a definition of citizenship that would have encompassed those born on our soil and those born elsewhere, but at least clause 12 tries to equalize both categories.

Against this backdrop, however, I would raise several major concerns. First, the loss or deprivation of citizenship is being moved into a bureaucratic and political realm of the executive with little or no scrutiny by the judiciary as a check or balance. Therefore, no objective test exists beyond the political realm of the day.

For example, the House of Commons amended the bill to include the words, "knowingly concealing material circumstance" in clauses 16 and 17. That was not in the government proposal. It would be meaningful to include the word "knowingly" so that people who may have misrepresented a situation or not filed material but who were unaware of the existence or the significance of that requirement would not be caught. The inclusion of the word "knowingly" makes it much more fair.

Clause 17, which is one of the most troublesome clauses, requires the minister to make a report under clause 16 when the minister is satisfied that a person has obtained, retained, renounced or resumed citizenship by false representation or fraud or knowingly concealed material circumstances.

• (1710)

The minister, under clause 17, must then send a notice. However, it is interesting — and I hope the committee can explore this — that clause 17(1)(a) simply says:

...the person does not, within 30 days after the sending of the notice, request...

The bill continues. As the bill is not specific, are we to fall back on the Federal Court rules that there must be some knowledge of that notice by the person against whom it will be directed? It is not clearly stated here and therefore it raises the anxiety level of many who have looked at this bill.

The bill now excludes any appeal through the judicial process. Much was made in the other place and by government officials that there will be judicial reviews, but there is no appeal from the Federal Court, trial division.

We have come to understand in Canadian law that neither judges nor bureaucrats nor ministers are infallible. We have a situation before us where a minister makes a finding and gives notice against a person; in turn, that person can go to the trial division, where, once the trial judge makes a decision it is final. Judicial reviews are not equal to appeals. It would take me too long to differentiate and explain the same. Suffice it to say that, to have proper checks and balances, an appeal should be allowed.

Some argue that appeals are time-consuming. Yet, in civil and criminal cases, we have appeals. In minor criminal matters, people are entitled to an appeal because we understand that there can be errors and that these errors can be fatal to people.

The deprivation of citizenship from a person is so grievous an issue that an appeal is warranted. I cannot think of many other cases in civil law that would meet the same gravity as removing citizenship from a person.

If it were one of us, it would be like walking on eggshells. Imagine a situation where one of us were the subject of a government order, with no appeal or due process, as we have come to know it? It sounds like those countries that many escaped from. We cannot be in such haste. Have we not learned anything in the criminal process? One trial does not always lead to a fair conclusion; sometimes an appeal is warranted.

A simple judicial review does not go into the substance of the issue; it simply looks at whether the government followed the law. However, in this case, the law will be stacked in favour of the department and the minister. The minister will make the initial finding, the minister and the department will prosecute the case, and the minister has said, "No appeal."

It is true that you can still appeal on humanitarian grounds, but that is a far cry from what would be a question of natural justice, in my opinion.

Another matter of some concern to me appears in clause 18 of the bill. Clause 18 allows a minister, up to five years after someone gains citizenship, to annul that order of citizenship. That is yet another area of anxiety for those who may be subject to that process. Again, there is no appeal, simply a judicial review. Again, there is the question of what 30 days' notice means.

We have short-circuited, for I presume efficiency and a question of costs, what would be a fundamental right of citizens

to an appeal, to have some process, so that when we say to people, "You are a citizen," it means something. We would only take that away in onerous cases that were well reasoned and adjudged.

Why have we added false identity as a prohibition? Senator Wilson raised the point that many refugees, of necessity, use a false identity to get into Canada. False identity has been added to clause 28 — which falls under "National Security." Was it intended to imply that everyone who has used a false identity is somehow in the category that would be a risk to national security? The department needs to explain this area further.

Part 4 provides for the government to have the power to deny citizenship in the public interest. This is particularly worrisome. This is a new development. Not only is public interest not defined, clause 22(3) makes such an order not subject to appeal or review by the court. It is totally in the hands of the politicians, namely, the executive branch and departmental officials.

Honourable senators, while "national interest" has been defined and has been the subject of some judicial interpretation, it has not been defined in the sense that it will be utilized pursuant to this clause. It is no source of comfort to those who may be part of this process to know that there is some vague concept called "public interest" that is yet to be defined. If this concept is to be introduced, there must be specificity of the type that all people will know what it means and can govern themselves accordingly.

We must understand that we are not talking about threats to national security. That is covered in another part of the bill. This is a new clause that says that we are not moving against people who have committed crimes, who are subject to investigation by CSIS or by the police. Under this clause, the Governor in Council, in the public interest, can take away your citizenship. Think how one would feel. Perhaps it affects some of us in this room. At any time, the Governor in Council can, on their definition of what "public interest" is, take one's citizenship away. Is this what clause 12 was all about, equalizing? I do not think so.

On the flip side, pursuant to clause 9, the Governor in Council may grant citizenship. Clause 9 lays out some of the terms by which the government may grant immediate citizenship, on humanitarian grounds and otherwise. The Governor in Council may grant citizenship to reward services of an exceptional value. Who makes that determination, for what work and in what manner? One would hope that it would be the next Olympic champion, but what does that really mean? Again, we are to trust the Governor in Council that this clause has merit and value and should be included.

Imagine standing in a line, waiting to become a citizen, having followed all of the rules to get in, and reading in the newspaper that someone else by the largesse of the government of the day was granted immediate citizenship?

Taken together, both clause 9 and Part 4 deliver a feeling that one is at the behest of the government of the day. Honourable senators, I have worked in countries where the government took and granted citizenship. I, for one, will resist any attempt to have the government of the day dispense largesse that involves citizenship. We have progressed from the 1920s; surely, due process and defined rules will serve our country best.

• (1720)

Honourable senators also may wish to have the government explain clause 23(5) and clause 23(6) of the bill. Both clauses are under the heading "National Security" and deal with the triggering of CSIS investigations. There are a number of provisions in clause 23(5) and clause 23(6). Those clauses use the words "as soon as practicable" and "The Review Committee shall, when it is convenient to do so...." Thus, a person would be under investigation as long as it is practicable and as long as it is convenient for the review committee to review that person. Would that be one month, one year, or a decade? These terms need to be defined. The government needs to explain why this latitude is necessary, even in cases of national interest.

Senator Wilson has raised two other serious concerns, namely, the right of nationality for everyone under Canada's jurisdiction, including the need to ensure that no one is left stateless and that there is compliance with our international obligations. I will not reiterate her comments, but I certainly concur with them. It is not only a concern for the statelessness situation in which some refugees may find themselves, but also it leads to vulnerability for children. This must be investigated fully.

Senator Wilson raised the issue of false identity, and I concur with her comments on those points.

It has been noted that the citizenship oath has been changed. The problem is that the oath is ambiguous and inexact regarding the monarchy. The new oath pledges loyalty and allegiance to the Queen, but it does not make explicit reference to loyalty to successors of Elizabeth II. It is significant to note, however, that the Interpretation Act specifically references that sovereignty automatically incorporates subsequent successors.

The question that begs asking is, why did the federal government propose this semantic change when it does not change the law? What is the thinking behind the word-shuffling? Could the Leader of the Government in the Senate explain the superficial change in the oath? Could he comment on the government's position on the continued existence of the monarchy in Canada?

It was pointed out rather eloquently in the other House that the oath could have been an opportunity to involve all Canadians because it is an oath that the minister encourages all of us to take. If it is an oath, it is a moment of pride and a moment of commitment, and it should have taken into account the deliberations of Parliament.

We passed the legislation regarding the flag after due debate. We should pass an oath with due debate and due involvement of all Canadians, if possible.

Bill C-16 also proposes to alter the citizenship decision-making process. At the present time, citizenship judges wield discretionary decision-making control under a chief judge. Bill C-16 would have these judges replaced and their duties taken over by public servants acting under the watchful eye of the minister.

Ceremonial duties that are now administered by judges would be taken over by citizenship commissioners appointed by the government. The result would be that active citizenship granting would no longer fall under the purview of the law. That is certainly lamentable.

Clause 31(7)(b) and clause 33(2)(d) indicate that these commissioners are to actively promote citizenship amongst those gaining citizenship. Would this be non-partisan? It remains to be seen. How do we ensure that these citizenship commissioners, appointed by the government, act in the best interests of all this pluralistic society?

Honourable senators, Bill C-16 expands the residency requirements for the granting of citizenship. At the present time, the law states that an applicant must reside in Canada for a minimal period of three years. However, the rules that dictate what actually constitutes residency are vague, discretionary and non-uniform. I commend the government in attempting to clarify these rules. Most of the investigation caseload has been coming from confusion in the definition of residency.

Bill C-16 stipulates that an applicant must be physically present in Canada for three of six years in order to become a Canadian citizen. It is noted that there should be some physical attachment to the country as the best way to gain some loyalty and allegiance to the country. I am inclined to agree with that premise. The problematic aspect is that there is no means to monitor this restriction except through the honour system.

As Canadians, we pride ourselves on our intrinsic right of freedom to come and go from Canada at will, freedom to work outside the borders of our nation and freedom from the watchful eyes of the government. It is a dimension in this legislation with which we must come to grips. Moreover, this residency clause is problematic to those who would become Canadian citizens and have success in international business or are required to take intensive and long-term international travel. In this day of globalization we need to consider whether the new amendments are sufficient to allow the latitude for this kind of global competitiveness.

I will quickly mention several other points. While we understand that there will be further modern rules and regulations governing citizenship, we have yet to see these regulations. Again, we see much of what is important to Canadians being hived off into regulations. I question whether for something as serious as the citizenship bill we should not have had the privilege of seeing these regulations early.

There are other changes in the bill. I will not go into detail, but they include a number of things to do with foreign-born children of citizens and adoption proceedings. The committee should vet these issues with the involvement of citizens.

It concerns me that a parent-child relationship will be defined in regulations. This, of course, has great implications for provinces, and we should know where we are heading on this matter.

Honourable senators, Bill C-16 fails to recognize these distinctions and differences among all Canadian citizens and that this country was founded on the backs of those whose knowledge of language was outweighed by the desire to live, work and prosper in Canada. I am concerned by the talk regarding the adequacy of the language requirement.

One source of diversity in this country has always included the language issue. In Canada, we acknowledge and celebrate two official languages. Bill C-16, however, imposes knowledge of one of the two official languages as essential to receiving citizenship rights. Denying citizenship to those who do not originate from either French- or English-language countries is contrary to Canadian values of equality and fairness.

If this government is serious about protecting human rights, it should not violate Article 2 of the Universal Declaration of Human Rights, which states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as...language....

• (1730)

It has never been imperative that one be able to speak either English or French to live in Canada. There is a sense of fairness lacking in this clause. It makes us question its logic and demands of us that we ask the federal government why it wishes to impose language requirements on people who seek a better life in this country and who have, and will, contribute so much to the welfare and success of Canada.

It is important to remember that this country was founded by immigrants. A diverse group of hard-working individuals came to Canada to create a better life for themselves and their families. In the course of doing that, they created a better Canada. Not all of them spoke English or French. It is no secret that many learned the languages of Canada after receiving citizenship. How important is it in today's society to have as a prerequisite that one be able to speak English or French? We need to debate this issue fully.

As honourable senators have probably noted, the issue of citizenship is one that is dear to us all. Perhaps to the exclusion of members of the aboriginal community, not one of us can claim not to have come from immigrants or to have been immigrants. If we expect immigrants to accept their responsibilities and obligations, then we must give them the peace, security and assurance that they will be respected and honoured as citizens just as those of us who were born here undertake the responsibilities and obligations which we have as citizens of Canada. They should not have to feel that there may be something lurking in their past, however inoffensive, that may come back to haunt them.

In 1967, when I was a practising lawyer, I assisted some people in trying to get their Canadian citizenship. However, because of the fact that in 1944 they happened to have attended a dance held at a club funded by the Communist Party, they were noted by our security services as being a risk. For all those years they lived in Canada and contributed to our country, yet they were denied citizenship. One must know what is the evidence against them. There must be due process and a full and adequate opportunity to meet a case. This is not to say that there are not some naturalized Canadians who have been involved in nefarious activities. However, if one has come to Canada from a country in which the whims of politicians rule, then one may not understand the rules here.

We have a responsibility to share with these people and we must not start from a point of distrust, but from a point of trust. We should not act on evidence that will put us before the Federal Court where a decision will be made based on a balance of probabilities. The courts have said that the burden of proof should be higher than that. Whether it should be beyond a reasonable doubt, I do not know. I do know, however, that a simple 51 per cent is not good enough. Courts have said that we should have a higher test. Although these cases would be civil cases, the issue of citizenship is important to us all. Therefore, we should scrutinize this bill to see that it meets the test of fairness. In this way, we can assure people that we will not act against them in an arbitrary and partial way, but that we will act only when we have good and legitimate cause to do so.

I do not dispute that there should be a process. What I wish for is a fair and valid process.

Honourable senators, the Web site of the department has an interesting area that is entitled "Welcome Home." I do not know whether Senator Pearson had something to do with it or not. The Welcome Home campaign invited Canadian children aged 5 to 13 to create messages of welcome for the thousands of newcomers who will take their oath of citizenship in 2000 and 2001.

Honourable senators, I should like to read to you one of the letters that has been written. A young person named Hayley from Woodville, Ontario has put on the Web site this letter dated March 2000:

Dear Future Canadian:

I think you are making a good decision by coming to Canada. Canada is the fairest country I have ever been to, and I have been to a lot of countries. Since Canada has always been home, I have learned that Canada tries to give everyone an equal chance and all citizens are kind. I hope that when you come to Canada you make a lot of new friends.

Welcome again.

Honourable senators, as citizens of Canada we should look at this as a test to assess whether we are being fair to new citizens. Are we making new citizens welcome? Are we living up to the reputation that we have?

I believe there are shortcomings in Bill C-16. I believe that we must take a long and hard look to ensure that we can meet Hayley's test.

On motion of Senator Kinsella, debate adjourned.

BUDGET IMPLEMENTATION BILL, 2000

SECOND READING

Hon. Francis William Mahovlich moved the second reading of Bill C-32, to implement certain provisions of the budget tabled in Parliament on February 28, 2000.

He said: Honourable senators, it is my pleasure to speak to Bill C-32, the 2000 budget implementation bill. This bill implements 10 measures announced in the 2000 budget, three of which are key to the nation's well-being. They involve our health care and education systems, better assistance to families with children, and financial assistance to students. In order to provide these benefits on time for Canadians, these particular measures must be in place by the summer. The remaining seven components of the bill do not face the same deadline. However, they are just as important for millions of Canadians and for the efficient operation of the government. However, before I discuss these measures in detail, I will put the bill in context.

In the February 2000 budget, the Minister of Finance set out four elements of the government's economic framework. The first is that the government will continue to provide sound fiscal management. The second is that the government will lower taxes to promote economic growth and to leave more money in the pockets of Canadians. The third is, to ensure equality of opportunity, the government will invest in providing Canadians with the skills and knowledge they need to get the jobs they want. The fourth is that together we will build an economy based on innovation which is the only means by which a modern nation can control its future.

As honourable senators know, the government's plan that was established in 1993 to eliminate the deficit, to turn the economy around and to create new jobs has worked. The deficit is history and the government is projecting its third, fourth and fifth balanced budgets in a row, something that has not been accomplished in almost 50 years, but the government is not prepared to rest on this record. Our challenge now is to build on this new-found strength.

• (1740)

As the minister said in the budget speech:

Make no mistake — the success we have achieved as a nation has come not only from strong growth, but from an abiding commitment to strong values — caring and compassion, an insistence that there be an equitable sharing of the benefits of economic growth.

For this reason, the first announcement in the 2000 budget increased funding for post-secondary education and health care, which are high priorities of both the government and Canadians.

Honourable senators, the federal government transfers approximately \$40 billion every year to the provinces and territories through three programs so that they are able to provide vital services to Canadians. The largest transfer is the Canada Health and Social Transfer which supports health care, post-secondary education, social assistance, and social services in the form of cash and tax transfers.

The Equalization Program enables less prosperous provinces to offer comparable public services to those in other areas of the country.

The third transfer program — Territorial Formula Financing — provides for public services in the North.

The 2000 budget announced increased funding to the CHST. This is the fourth time that the federal government has strengthened transfers to the provinces through the CHST. Previous enhancements were included in the 1996, 1998 and 1999 budgets. For health care alone, the 1999 budget provided the single largest investment in the government's history — \$11.5 billion.

Honourable senators, the legislation we are debating today amends the Federal-Provincial Fiscal Arrangements Act to authorize payment of the \$2.5-billion increase announced in the 2000 budget to the CHST for health care and post-secondary education. This supplement will be distributed to the provinces and territories on a per capita basis and paid into a trust that the provinces can draw down over four years beginning when Bill C-32 is passed.

Together with the investment from the 1999 budget, the cash component of the CHST will now reach \$15.5 billion in each of the next four years, a 25 per cent increase over the 1998-99 level. This measure must be implemented quickly to ensure that this much-needed money gets into the health care system as soon as possible to deal with the pressing needs of Canadians.

Another measure that must be in place soon concerns the Canada Student Loans Program. Since 1964, this program has helped over 350,000 needy Canadian students each year to access post-secondary education. Until now, the program has been administered and delivered on behalf of the federal government by financial institutions. However, this arrangement will expire on July 31. Bill C-32 ensures that there will be money available for student borrowers after that date and that there will be no interruption in service.

I want to assure honourable senators and students that there will be no significant changes to the program. Students who have already consolidated their loans and are repaying them will not be affected at all. This measure must also be passed without delay so that the new program is in place by August 1 for those students who need financial assistance in the 2000-01 school year.

A third measure concerns child tax benefits and must be in place before July. By way of background, the 2000 budget fully restores indexation of the personal tax system as of January 1, 2000. Indexation will particularly benefit middle- and low-income Canadians because of bracket creep and because these are taxpayers who generally receive benefits under the Canada Child Tax Benefit and the GST credit. The minister stated in his budget speech:

I hardly need to remind this house that the cost of raising children is a significant expense. Ask any parent about the price of new shoes, or snowsuits. Ask any parent whose child plays sports or takes music lessons. Ask any parent trying to save for their child's education.

The purpose of the Canada Child Tax Benefit is help with these costs.

As honourable senators know, there are two components to the CCTB, the CCTB base benefit for low- and middle-income families and the National Child Benefit supplement for low-income families. To help families with the added expense of raising children, Bill C-32 increases CCTB benefits by \$2.5 billion annually by the year 2004. The goal of the government is to increase the maximum CCTB benefit for the first child to \$2,400 and to \$2,200 for the second child by the year 2004.

Through this bill, the CCTB will be fully indexed. Both the base benefit and the NCB supplement will be increased beyond indexation. The income thresholds where the base benefit is reduced and the NCB supplement is fully phased out will be raised. The reduction rate for the base benefit will be lowered. These improvements will benefit nine out of 10 Canadian children.

At present, the CCTB benefits lower-income Canadians the most. These new measures will add to the benefit and extend it more fully for middle-income families. A two-child family with an income of \$60,000, for example, will see its CCTB more than double from its pre-2000 budget level of \$733 to \$1,541 by 2004.

Honourable senators, low- and middle-income Canadian families are depending on their CCTB increases and indexed GST benefits this coming July. Let us ensure that these benefits will be there for them by passing this bill without delay.

This legislation contains another measure that also focuses on families. The 2000 budget does much for parents of newborn and newly adopted children by extending parental leave under the Employment Insurance Program and by making benefits more flexible and accessible. Including the two-week waiting period for benefits, the current EI program provides up to six months of maternity and parental leave benefits for new parents. That is 15 weeks of maternity benefits for recovery from child birth and 10 weeks of parental leave available for both adoptive and biological parents.

Under Bill C-32, the maximum amount of child-related leave will be doubled to one year. Parental leave, which can be claimed by either parent or split between them, will be increased to 35 weeks. Fifteen weeks of maternity leave, together with a

standard two-week waiting period, will bring the amount of child-related leave to one full year.

Further, honourable senators, Bill C-32 makes maternity and paternal benefits more accessible by reducing the number of insurable hours that must be worked to qualify for a special benefit from 700 to 600. In addition, there will be more flexibility for parents to decide whether one or both of them will spend time at home with their new child, and only one waiting period will apply rather than two, as is currently the case. Parents will also be allowed to work part time while receiving parental benefits, a measure that will help mothers gradually return to the workplace and enable parents to maintain their skills and work contacts while on leave. Further, income earned while receiving parental benefits will be treated the same as regular EI benefits.

I should point out that this bill also amends the Canada Labour Code to protect the jobs of employees in federally regulated workplaces during the extended parental leave period.

Another measure in Bill C-32 directly affects registered retirement savings plans and registered pension plans, which are the primary source of retirement income for middle-income Canadians. Prior to the 2000 budget, several organizations, including the House of Commons Finance Committee, the Senate Banking Committee, and the Investment Funds Institute of Canada, asked the government to reconsider the current level for the limit on foreign property investments in RPPs and RRSPs. The minister stated in the budget speech:

...adequate incomes in retirement are a critical requirement for any society. Diversification of registered retirement savings plans and registered pension plans, in turn, is an important part of ensuring that income.

• (1750)

Bill C-32 raises the foreign content limit on those investments from 20 per cent to 25 per cent for 2000, and to 30 per cent for 2001. These increases will provide better opportunities for Canadians to diversify their personal retirement savings investments through RPPs and RRSPs.

I would also point out that these increases also apply to investments administered by the Canada Pension Plan Investment Board.

Honourable senators, the Canada Pension Plan legislation —

The Hon. the Speaker *pro tempore*: I am sorry to interrupt Senator Mahovlich, but I would draw the attention of honourable senators to the clock. It is now six o'clock.

Hon. Dan Hays (Deputy Leader of the Government): May I request of honourable senators and you, Your Honour, that we not see the clock so that we may proceed? I am not sure how long it will take, but I would hope not too long. That will be the most efficient way to complete our business for today.

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed that I not see the clock?

Hon. Senators: Agreed.

Senator Mahovlich: Honourable senators, the Canada Pension Plan legislation will also be amended with the passage of this bill.

The provinces have borrowed money from the CPP. Bill C-32 responds to a request from the provinces that was agreed to by the federal and provincial ministers of finance last December as part of the CPP Triennial Review for an option to prepay their CPP borrowings. Provinces will now be allowed to prepay their CPP obligations in advance of maturity and at no cost to the CPP plan. This will provide provinces with fiscal surpluses some flexibility to look for ways to reduce their debts. It also means that more funds will be transferred to CPPIB and invested in the market at higher expected returns.

The Special Import Measures Act will also be amended with the passage of Bill C-32. These amendments will bring the Canadian countervailing duty laws into line with recent changes to the World Trade Organization Agreement on Subsidies and Countervailing Measures.

The WTO Subsidies Agreement contained provisions that rendered certain foreign subsidies that satisfied very specific criteria immune from countervailing duty action. These non-actionable subsidy provisions lapsed on December 31, 1999, when WTO countries failed to agree to their extension.

The amendments before us today will allow for the suspension of provisions in SIMA that implement these non-actionable subsidy provisions into Canadian law.

These changes bring Canadian countervailing duty law into line with these recent WTO changes and ensure that Canada is not treating its trading partners more favourably than they are treating us in countervailing duty investigations.

Turning now to the issue of First Nations taxation, the 2000 budget marks the fourth time that the government has indicated its willingness to enter into taxation arrangements with interested First Nations.

At present, the Cowichan Tribes, the West Bank First Nation, the Kamloops Indian Band and the Sliammon First Nation all tax on-reserve sales of certain products. Personal income tax collection and sharing agreements with the seven self-governing Yukon First Nations will now also come into effect.

The new legislation will enable 13 First Nations to levy a 7 per cent GST-style sales tax on fuel, alcohol and tobacco products sold on their reserves. First Nations sales taxes will be collected by the Canada Customs and Revenue Agency. In addition, the federal government will vacate the GST room where the First Nation tax applies.

Other interested First Nations will now be able to follow suit through an Order in Council.

The final measure in Bill C-32 amends the Excise Tax Act.

While there is generally a high degree of voluntary compliance in reporting and remitting the GST/HST, there are cases where tax revenues can occasionally be at risk if a registrant is allowed

the usual remittance period. Until now, the CCRA has been powerless to proceed with assessment and collection action if it suspected tax evasion in these circumstances.

As a result of Bill C-32, the Minister of National Revenue will now be empowered to take immediate action in these instances. The minister can apply *ex parte* — without notice — for judicial authorization to proceed with assessment and collection action in cases where revenues may be at risk if registrants are allowed their usual remittance period. The registrant will have the right to apply for judicial review of the court's decision.

I would also point out that the Income Tax Act contains a similar provision pertaining to the collection of income tax.

In conclusion, honourable senators, the measures in Bill C-32 build on the new-found strength that the minister talked about in the 2000 budget and are designed to improve the quality of life of Canadians.

None of the measures is controversial. As I discussed earlier, it is important that this bill be passed without delay because of three measures that must be implemented immediately.

First, it is imperative that the much-needed CHST money gets into the health care system as quickly as possible to deal with the pressing needs of Canadians.

Second, in order for Child Tax Benefits and indexed GST benefits to come into force on July 1, this legislation must be passed before the end of June.

Third, there must be money available under the student loan program for students entering school in September.

The 2000 budget delivered what the Minister of Finance promised: help for low- and modest-income families with children; help for our health care and post-secondary education systems; and help for students who want to pursue higher education.

Now it is time for us to implement these measures. Let us not hold up this assistance. Canadians in need are waiting.

I urge all honourable senators to accord speedy passage of this legislation.

Hon. Terry Stratton: Honourable senators, I will begin by acknowledging, as Senator Mahovlich has stated more than once in his speech, that this is a time-sensitive bill. The government wants Royal Assent before we rise later this month so that it can pay increased Canada tax benefits in July and so that student loans can be processed under the new system beginning this August. My party does not oppose most of the specific measures in this bill *per se*.

However, we have a problem with the way that those measures fit into the overall picture. Yes, the government will improve EI parental benefits. Allowing new parents to spend more time with their children can be a good thing, but this does not justify the government continuing to collect \$6 billion a year more in EI premiums than it spends on benefits.

Yes, the bill increases the foreign content limit for RSPs and pension plans to 30 per cent from 20 per cent over the next two years, allowing Canadians greater opportunity to diversify their investments. As has been said by Senator Mahovlich, the Senate Banking Committee has been calling for this for years. Many on our side during Question Period have called for this for years. However, this does not justify the government continuing to pursue policies that drive Canadians to invest elsewhere. Canadians and their governments need not ask why, over the past several years, companies outside of Canada have earned better rates of return for their investors than companies inside Canada. They need not ask why other countries are more often a more attractive place to invest and create high-paying jobs. The answers have been given over and over again: taxes, productivity, anaemic R&D performance, regulatory overkill and a prime minister who does not understand the new economy. Those items top the list.

• (1800)

I have news for the Prime Minister. This is not the 1960s, where tax rates mattered far less than they do today, where high tariff walls meant we could be uncompetitive as we wanted, and where bits and bites were some kind of snack food. Thanks to former prime minister Mulroney and the Free Trade Agreement, we have now got that issue in hand with the tariff walls coming down.

Yes, honourable senators, this bill raises benefit levels under the Canada Child Tax Benefit and the National Child Tax Benefit. That is the good news. As I stated earlier in my budget speech, it also raises the clawback rates for benefits under the National Child Tax Benefit. If we add up all the clawbacks and taxes faced by a Manitoba family with four children and an income of \$31,000, almost 90 cents out of each dollar of additional earnings is lost to clawbacks and taxes under the latest redesign of this program. Using the example of Manitoba again, that includes a new 24 per cent middle federal rate, the 15.6 per cent middle Manitoba rate, the 1 per cent clawback of the Manitoba tax reduction for families, the 33.4 per cent clawback of the National Child Benefit, the 5 per cent clawback of the Canada Child Tax Benefit, the 5 per cent clawback of the GST credit, and approximately 5 per cent of the net of tax credits for the CPP and EI. That sounds and looks rather ridiculous.

In committee, I should like someone from the department to explain why the government keeps adding clawback upon clawback every time it brings in a new program. Surely, it is possible to design these programs in a way that does not strip individuals of their incentive to work. Yes, this bill allows the government to contribute a further \$2.5 billion over four years for health care. As a result, the federal government's annual cash contribution for health care and education will only be \$4 billion short of what it was back in 1993. Therefore, there is no point in crowing about this; we are still a fair bit short.

Do we feel any more confident about the state of the future of our health care system than we did before the budget? Thus far, the polling shows Canadians are not any more confident. Our health care system is in crisis, and this government's response is to deny adequate funding and to shout down just about every proposal that has been made to fix it. Yet, this bill restores full

indexation to the tax system. The government tells us that this is a tax cut, but the reality is that this bill is cancelling a planned \$1.3-billion tax hike for this year and \$2.2 billion for next year. As taxpayers, basically we will be left after inflation in the same position that we would have been with no inflation, and Canada will still be a nation where workers are taxed at income levels that fall below the minimum wage. Imagine being taxed on income for which you earned the minimum wage? That is incredible. Indexation raises the basic personal amount for this year by what? A whopping \$100. That is a tax savings of about \$17 a month, or approximately 33 cents a week. A person cannot even buy a cup of coffee for that. They must feel wonderful about that \$100 — and my friends opposite shout from the rooftops about cutting taxes. I do not think so.

Canadian workers will still pay taxes on incomes as low as \$7,231 dollars. Please tell me what the poverty level is? I think it is substantially higher than that. Is it not time for us to stop taxing the poor? At least raise the threshold to \$10,000 or \$12,000 and give these people a chance. That is doing something credible.

Honourable senators, \$100 a year is nothing; 33 cents a week is terrible. Senators opposite must not feel very good about that. I know they do not. Do something about it!

Honourable senators, in mid-May it was revealed that when the books were closed on the 1999-2000 fiscal year and all the accounting tricks were played, last year's surplus was \$8 billion. Just three months prior to this, back when the Minister of Finance delivered his budget, we had been told to expect only \$3 billion, and only if the contingency amount was not needed. We should not be too surprised. This government and this Minister of Finance have a history of pretending that the books are worse than they are and then using this as an excuse to underfund health care, to inflate EI premiums and to postpone significant tax cuts. It boggles the mind that in May the government suddenly found that it has \$5 billion more than it thought it had in February. Presumably, revenues this year and next will be \$5 billion more than forecast as well, as the tax base is higher than expected.

Given the available funds, the single biggest flaw of this bill is that it simply does not do enough to fix our health care system and to make our tax system competitive. We can have our health care and a competitive tax system, but we must do more than the timid steps in this bill.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Mahovlich, bill referred to the Standing Senate Committee on National Finance.

BUSINESS OF THE SENATE

Hon. John Lynch-Staunton (Leader of the Opposition):

Honourable senators, I am quite prepared to speak to Order No. 1 under Senate Public Bills, but I can certainly wait until tomorrow or Thursday because the families and friends of our two new colleagues are awaiting them. It is traditional that they be welcomed in the Speaker's chambers. I would not want to be responsible for the delay. I would urge the deputy leader to propose an adjournment motion at this stage, unless there is some pressing business on the Order Paper of which I am not aware.

Hon. Dan Hays (Deputy Leader of the Government):

Honourable senators, that is an invitation that should be responded to in a positive way. However, there are a couple of items that we on this side wish to proceed with, namely, under Commons Public Bills, Bills C-445 and C-473 regarding constituency name changes, as well as a motion that Senator Chalifoux wishes to move involving the hiring staff for her committee's work.

• (1810)

If we could go immediately to those, then I would think that Senator Lynch-Staunton's suggestion is an excellent one, one that we should accept. I will make the appropriate request, following items No. 2 and No. 3 under Commons Public Bills.

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF RIMOUSKI—MITIS

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Robichaud, P.C. (*Saint-Louis-de-Kent*), for the second reading of Bill C-445, to change the name of the electoral district of Rimouski—Mitis.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition):

Honourable senators, I should like to speak briefly to this bill. Bill C-445 is a terrible bill. The urgency that my colleague the Deputy Leader of the Government seems to attach to a bill to change the name of a constituency is a source of some amusement in my chair. I do not see the urgency; however, he says that it is urgent, and I will accept his word.

Senator Tkachuk: They want to draw an election map.

Senator Kinsella: I do wish, honourable senators, to point out a couple of serious problems. We have 301 ridings in Canada, and this is at least the forty-fifth name change since the last redistribution. The mathematicians here can figure out what percentage of ridings have had their names changed.

The question that we would obviously ask ourselves is whether there is any impact as a result of name changes. If so,

what is the impact of a name change to a constituency? Is a change of name cost-neutral, for example? Does it cost anything to change these names?

My research shows that, yes, it costs a significant amount of money to change a name. For example, not only does Elections Canada have to reprint the maps, but also they must print what they call errata on the previous publications. Also, a large number of government departments and agencies need to reflect that name change in their publications. Also, in this house and in the other place, there are cost implications of riding name changes because various documents require reprinting.

The bottom line on this point, honourable senators, is that a constituency name change is not cost-neutral.

There is the matter of the technology utilized by Elections Canada. That technology has a built-in limitation in terms of how many letters it can handle. I believe it is 50 characters.

All of this was reported to us in evidence in the proceedings of the Standing Senate Committee on Legal and Constitutional Affairs in February 1999 by Mr. Kingsley. He testified that there are a number of administrative impacts as a result of an electoral district name change.

For example, he drew our attention to the guidelines of the Canadian Permanent Committee on Geographic Names. A name change must be congruent with that committee.

To give support to my first argument, Mr. Kingsley also said that there seems to be an increase in the number of name changes now being sought. When he appeared before our committee in February 1999, 41 electoral district names had been changed at that time.

Mr. Kingsley also stated that he observed another trend over the last three representation orders, in that commissions are selecting longer electoral district names. This became problematic because the equipment they utilized can only handle up to 50 characters. Otherwise, there is a major cost to these changes.

Mr. Kingsley further made a few observations about the administrative implications of name changes. After the changes are proclaimed, giving effect to the representation order, Elections Canada is required by law to print as soon as possible geographical maps for the country. He mentioned several further consequences of these name changes. I will not belabour the point. We have the report of that committee available.

Let me raise a final point with reference to this bill. One of the ridings in which a name change is proposed is in the province of Ontario, where provincial ridings are congruent with federal ridings. I am advised also that, in metropolitan Toronto, at the municipal level, there is a cemetery between municipal districts and federal and provincial ridings. A name change can have implications not only at the provincial level but also at the municipal level. The committee that examines this bill ought to delve into those particular matters.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, Senator Kinsella asks a good question. Why are we wanting to proceed with this? The answer may not be acceptable to all senators, but it is based on the best information that I have received after asking the same question of government officials. I am speaking to both matters, although I am speaking now under Commons Public Bills, item No. 2.

If these ridings were to change names, it would be better that the name change is known before the summer break. If the matter went over to the fall and names were changed then, an expensive reprinting of maps would be required. That is the reason given to me for addressing these matters now — to be timely in terms of avoiding costs in the office of the Chief Electoral Officer.

On the issue of the number of characters, I believe that Senator Kinsella is right. My understanding is that none of the new names proposed in these two bills exceeds the number of characters that would involve added expense.

• (1820)

I note Senator Kinsella's point about the Province of Ontario adopting the same riding boundaries and the same number of members as the federal ridings. These are not government bills, although we on the government side are pushing them for the reasons I have stated. There are objections and the bill may or may not pass.

The comments I have made are really directed to both bills, although we are on one bill. Senator Rompkey is the sponsor of both bills and hopefully we can now move to second reading so that the bills can be referred to the on Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

A BILL TO CHANGE THE NAME OF CERTAIN ELECTORAL DISTRICTS

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Austin, P.C., for the second reading of Bill C-473, to change the names of certain electoral districts.

Hon. Pierre Claude Nolin: Honourable senators, under Bill C-473, 12 electoral districts will be changing their name. Senator Kinsella spoke of the principles governing such name changes.

I have two points to make, and the first concerns the length of names. I would invite the deputy government leader in this house to again count the characters used in the name change of the riding of Verdun—Saint-Henri—Saint-Paul—Pointe Saint-Charles. There are 56 characters, because the Chief Electoral Officer said before the committee in the other house that the spaces and the hyphens also have to be counted. When we add it all up, we get 56 characters, and, according to Mr. Kingsley's testimony before the committee of the other place, this will cost half a million dollars.

There is another matter that should not be underestimated and that is the similarity of names and geographical limits in Ontario. In the Toronto area, where the neighbourhood boundaries in that mega city follow the boundaries of federal and provincial ridings bear the same name.

Let us take the case of the riding of Charlesbourg in the Quebec City area, and the riding of Carleton—Gloucester in the Ottawa area. Two members have paid strict attention to one of the basic principles, that of allowing the public to create a feeling of belonging to a local community, and of allowing the member to be identified more readily with the community. If the bill is passed, the riding of Charlesbourg will henceforth be known as Charlesbourg—Jacques-Cartier, and the riding of Carleton—Gloucester as Ottawa—Orléans. In both these cases, the members undertook lengthy consultations. The member for Charlesbourg sent a survey to 45,000 people in his riding to determine which of the names was the most popular. He consulted the provincial MLA, mayors, and representatives of paramunicipal organizations, although not required to do so by law. They reached the consensus contained in Bill C-473. I therefore enthusiastically support this amendment. The same thing happened in the case of the current riding of Carleton—Gloucester, where MP Bellemare also consulted his constituents, regional mayors, professors and the provincial MLA. The result of these consultations was his proposal that the name of his riding be changed to Ottawa—Orléans. A problem arises in the case of Dennis Mills, the federal MP for the riding of Broadview—Greenwood, who consulted nobody and, worse yet, announced an event in his riding in the local newspapers, using the new riding name. If he had had the slightest courtesy, he would have consulted or at least maintained a minimum of cordiality with the provincial MLA, something he completely failed to do.

I have received correspondence from the provincial MLA and from certain of MP Mills' constituents complaining about his cavalier attitude. I fully intend to ask Mr. Mills to explain to us in committee why he acted this way. What gives him the right to announce the new name of the riding as part of an event that took place on April 29, in other words, before Bill C-473 was passed by Parliament? The role of the Senate is to examine all these bills. Mr. Mills pays no heed to anyone, not even the Senate, and the name of his riding has already been changed. There is therefore no question of my blindly going along with this.

Hon. Fernand Robichaud: He did not want to spend money.

Senator Nolin: Honourable senators, I would invite Mr. Mills to appear before in committee to explain his actions. Following his testimony, we will see whether the change should be authorized in the case of his riding. In the case of the ridings of Charlesbourg and Ottawa—Orléans, the changes respect the wishes of the population. But in the case of Broadview—Greenwood, Mr. Mills failed the test of civility and politeness. He must provide an explanation.

[English]

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, Senator Nolin has raised a number of issues that the committee to which this bill is referred should and ought to review. That is the appropriate place for us, in our usual way, to consider these questions. I have nothing further to say other than to urge honourable senators to move the bill to committee.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO EXAMINE OPPORTUNITIES TO EXPAND ECONOMIC DEVELOPMENT OF NATIONAL PARKS IN THE NORTH

Leave having been given to proceed to Motion No. 74:

Hon. Thelma J. Chalifoux, pursuant to notice of June 7, 2000, moved:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report upon the opportunities to expand economic development, including tourism and employment, associated with national parks in Northern Canada, within the parameters of existing comprehensive land claim and associated agreements with Aboriginal Peoples and in accordance with the principles of the National Parks Act; and

That the Committee submit its report no later than December 15, 2000.

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h), moved:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 14, 2000, at 1:30 p.m.;

That at 3:30 p.m. tomorrow, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate;

That should a division be deferred until 5:30 p.m. tomorrow, the Speaker shall interrupt the proceedings at 3:30 p.m. to suspend the sitting until 5:30 p.m. for the taking of the deferred division; and

That all matters on the Orders of the Day and on the Notice Paper, which have not been reached, shall retain their position.

Motion agreed to.

The Senate adjourned until Wednesday, June 14, 2000, at 1:30 p.m.

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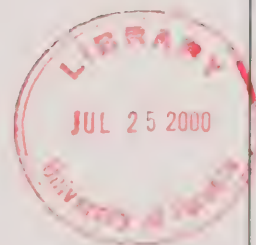
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NUMBER 66

OFFICIAL REPORT
(HANSARD)

Wednesday, June 14, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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THE SENATE

Wednesday, June 14, 2000

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

ONTARIO

SUDBURY—GLOBAL AMBASSADOR PARTNERSHIP PROGRAM

Hon. Marie-P. Poulin: Honourable senators, today I should like to bring to the attention of the Senate a unique Canadian endeavour: A special partnership between a city, its development corporation, its three post-secondary institutions and seven individuals. This month, Sudbury, Ontario, has launched a program called the Global Ambassador Partnership Program.

[Translation]

Honourable senators, this program will make it possible to build up a network of people whose responsibilities involve them in contacts with other countries. Whether their area of endeavour is health, sports, labour relations, education, arts and entertainment or politics, to name but a few, this network of people will identify partnership opportunities for the entrepreneurs or institutions of Sudbury.

Second, the purpose of this program is to contribute to the diversification and economic progress of a region that is in the midst of transition. This human touch will be an addition to the new modes of communication which will enable Sudbury and all of the communities of Northern Ontario to move closer to major centres, not just in Ontario and Canada, but throughout the world.

[English]

Honourable senators, this program's acronym is GAPP, the Global Ambassador Partnership Program. It reflects the fact that in Sudbury, as well as in Northern Ontario, we have suffered because of the geographical gap between Northern and Southern Ontario, but we have always tried to develop other links.

Today, Sudbury is one of Canada's "smart communities," one of the most wired cities of our country. This program is adding an additional link, and I am honoured to serve officially as one of Sudbury's ambassadors, along with Mike Foligno, Head Coach, Hershey Bears; Leo Gerard, International Secretary, United Steelworkers of America; Gerry Manwell, Vice-President, Suncor Energy Inc.; Susan Hay, Global Television Network;

Joe Bowen, Sports Broadcaster; and Keith Phillips, Managing Director, Merrill Lynch & Co.

Honourable senators, the Internet GAPP Web site will provide the communication vehicle for the program between the possible partners, the ambassadors and the GAPP office. This could become a model for other communities.

Honourable senators, please join me in congratulating Sudbury for this initiative.

UNITED NATIONS

UNICEF REPORT RANKING COUNTRIES ACCORDING TO NUMBER OF CHILDREN LIVING IN POVERTY

Hon. Erminie J. Cohen: Honourable senators, this week a report released by the UNICEF Research Centre in Florence, Italy, revealed that Canada sits at the bottom of the rankings of child poverty in the world's richest nations. The report identifies Canada as seventeenth amongst 23 industrialized nations, with 15.5 per cent of our children considered poor.

Interestingly, the report challenged a prevalent assumption in Canada that large numbers of single-parent families mean more child poverty. However, Sweden, which was rated best, with 2.6 per cent of children considered poor, also had the highest share of children living with one parent — more than 20 per cent, in fact. In Canada, a little more than half of single parents live in poverty. The same proportion of children are being raised by single parents in Finland, but the poverty rate for children there is 4.3 per cent compared to our 15.5 per cent.

The executive directors of UNICEF Canada stated simply that if we could address the situation of poverty and single parent families, "we could have as much as a 30 per cent impact on the reduction of the number of children living in poverty." This would have a substantial impact in eradicating child poverty, something to which we as a nation should aspire.

Not surprisingly, the report found that those countries that invest more of their gross national product in social programs report lower levels of poverty. It also determined that we should examine other policy instruments that are effective in the Nordic countries. For example, they have policies that enable women to earn higher incomes and receive substantial maternity leave benefits. As well, universal daycare is a way of life. Canada, in developing its early childhood intervention programs, would be wise to study and learn from the successes of those forward-thinking nations.

• (1340)

ROUTINE PROCEEDINGS

DEFENCE PRODUCTION ACT

BILL TO AMEND—FIRST READING

Hon. Dan Hays (Deputy Leader of the Government) presented Bill S-25, to amend the Defence Production Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

CANADIAN TOURISM COMMISSION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-5, to establish the Canadian Tourism Commission.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

SALES TAX AND EXCISE TAX AMENDMENTS BILL, 1999

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-24, to amend the Excise Tax Act, a related Act, the Bankruptcy and Insolvency Act, the Budget Implementation Act, 1997, the Budget Implementation Act, 1998, the Budget Implementation Act, 1999, the Canada Pension Plan, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Act, the Income Tax Act, the Tax Court of Canada Act and the Unemployment Insurance Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[English]

CRIMES AGAINST HUMANITY AND WAR CRIMES BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-19, respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

CANADA NATIONAL PARKS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-27, respecting the national parks of Canada.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Banks, bill placed on the Orders of the Day for second reading, Monday next, June 19, 2000.

[English]

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

DEPORTATION OF CITIZEN OF CHINA—EXECUTION FOR CRIMINAL ACTS UPON RETURN—REQUEST FOR INFORMATION ON HEARINGS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, to the Leader of the Government in the Senate, today's *Edmonton Sun* reported that a Chinese man expelled from Canada after fleeing here, one Mr. Fang Yong, was executed by the Chinese government for the crime of embezzling money.

Citizenship and Immigration Minister Caplan was unapologetic and non-compassionate on hearing of the execution which followed her deportation order. She noted that it is the policy of the federal government to deport people fleeing execution back to their home countries.

Would the Leader of the Government in the Senate table in this house as soon as possible any and all documents with regard to the deportation hearings relating to this case so that honourable senators may further examine this policy of deporting people who will end up being executed?

Hon. J. Bernard Boudreau (Leader of the Government): I thank the honourable senator for raising this issue. One can only regret any occasion on which an individual is executed, and certainly that would be my personal feeling in this particular case.

Obviously, none of those documents are in my possession. I shall convey that request to the minister and relay her response to the honourable senator.

DEPORTATION OF CITIZENSHIP APPLICANTS FACING CAPITAL PUNISHMENT—GOVERNMENT POLICY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, in light of Canada's opposition to capital punishment and its ratification of United Nations human rights instruments outlawing the practice of the death penalty, and given the articulate expression of opposition to capital punishment made in this chamber on many occasions by honourable senators on all sides, would the Leader of the Government in the Senate clarify his government's position on this issue and also indicate whether he supports the actions of his cabinet colleague Madam Caplan?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not familiar with the details of the case. Obviously now that the honourable senator has raised it here in this chamber, I shall familiarize myself and be in a better position to respond in more detail to his inquiry.

I should reiterate, and this, I believe, is a view shared by most if not all honourable senators, that I very much regret that capital punishment was imposed in this particular case. I do not think I can go beyond that at this stage.

NATIONAL DEFENCE

YUGOSLAVIA—ROTATION OF PEACEKEEPING SOLDIERS HOME—PROBLEMS OF RETURN FLIGHT

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. He will recall that some weeks ago, I asked about problems in bringing Canadian peacekeepers back home to Canada. At that

time, it was Canadians involved in the Kosovo area. Among other things, the aircraft in question had mechanical difficulties, and it took these peacekeepers three extra days to arrive back. It does not seem like much, but at the end of a peacekeeping mission, after six months, you do not want to sit around somewhere and not be going home. All you really want to do is get there.

Peacekeepers of CHALK 14 were supposed to return on Monday evening of this week to Petawawa from Kosovo. I am told that the aircraft that was supposed to bring them home from a very ugly peacekeeping mission was taken by the government for some other purpose, and that the charter sent to replace it broke down in Greece. I hope that they are home now, but they were still in Greece late last night. This is somewhat unacceptable, and to many of us it is totally unacceptable. It is certainly totally unacceptable to their wives, families and children.

• (1350)

Will the government assure us that some way will be found to bring peacekeepers home when their time is up and that arrangements will be made to meet system criteria?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the honourable senator is quite correct, as he relates the elements of that situation.

The Canadian Armed Forces airbus, which was originally scheduled to redeploy 130 Armed Forces personnel back to Canada, was utilized to transport a rather significant delegation to the funeral for the leader of Syria. That decision was made with certain time constraints with respect to the funeral of the late Hafez Assad, and the rather large Canadian delegation that was being sent to that funeral.

A replacement aircraft was deployed but, as the honourable senator pointed out, there was a mechanical difficulty with that chartered aircraft. It was a privately chartered aircraft and, at the last minute, there was a mechanical difficulty that required the aircraft to return to the airport. A second replacement commercial aircraft was sent yesterday. As we speak, I am not aware of whether the forces are back in Canada, but I can certainly inquire.

Obviously, I agree that, after serving on a very arduous and, at times, dangerous mission, our peacekeepers were very anxious to get back to Canada. We want to return them to this country as quickly as possible. However, those are the circumstances surrounding the delay.

Senator Forrestall: Honourable senators, I wish the minister would address the most important part of the question, namely, will he ensure that those people who enter into contracts with the Department of National Defence and the Government of Canada for such purposes provide equipment that will arrive on time, leave on time, and arrive safely back here in Canada?

Honourable senators, I have a related military question. In light of the fact that time is running out and keeping in mind that the government's commitment to replace the entire Sea King fleet by 2005 is becoming more and more a pipe dream — I shall not mention the content of the pipe that I have in the back of my mind — will the government make an announcement on the Sea King replacement prior to the parliamentary summer break? The other place, as we know, is set to adjourn later today or some time tomorrow. Will we have an announcement before the House of Commons rises for the summer?

Senator Boudreau: I have no information to share with the honourable senator with respect to either the timing of any announcement, or whether it will be made before the House of Commons adjourns. I am afraid that I cannot enlighten him at all in that respect.

With regard to the replacement of aircraft and the chartering of private aircraft to bring our Canadian forces personnel home, of course it is the object of government to ensure that these aircraft are suitable to perform the purpose for which they are chartered. Occasionally, however, these things can and do happen. Apparently, it did happen in this case and a replacement aircraft was obtained without delay.

I cannot guarantee that this will never happen again, but it is certainly the objective of the government to return our forces when they are scheduled to be home.

Senator Forrestall: This is now the second time that we have had serious delays, reports of mechanical failure, and so on. I am questioning both the fitness of those people who offer aircraft for charter to the Government of Canada for this particular role and whether or not the equipment that they are putting forward is reliable. I do not want to return to the issue of the Sea Kings. I shall leave that for the moment. We are here for another three or four weeks and, who knows, I am reminded of an old phrase, "It is looking a lot more like August than the end of June." I am running out of time myself, I am afraid.

TRANSPORT

CANCELLATION OF CANADIAN TRANSPORTATION AGENCY HEARINGS ON PORT OF HALIFAX LEASE DISPUTE WITH HALTERM LIMITED

Hon. J. Michael Forrestall: Can the minister tell us if he was consulted about the cancellation of the Canadian Transportation Agency hearings in the Port of Halifax lease dispute with Halterm Limited prior to the announced cancellation? Will the minister for Nova Scotia go to the Minister of Transport and request that the hearing be reconvened immediately so that this agreement can be settled?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I wish to address the first part of the senator's question concerning the reliability of replacement aircraft. I am prepared to make inquiries of the minister with respect to this particular company, whether or not they have a record. I shall inquire as to whether or not this event that has occurred is an isolated incident for that company or whether that

company has a record of other similar incidents. I shall attempt to get that information and share it with all honourable senators.

With respect to the CTA decision, the answer is yes. I was aware and consulted on the decision prior to its announcement. I communicated my views to the Minister of Transport in advance of the decision.

Senator Forrestall: Honourable senators, I would not want to ask the minister to disclose a confidence, but we might appreciate it if we could learn what that advice was and whether or not the minister is likely to rescind that directive and let the transportation agency resolve this problem.

Incidentally, I tend to agree. It is not for the Canadian Transportation Agency to resolve those kinds of domestic issues. The matter should have been sorted out among the parties themselves a long time ago. As someone said, however, it is always nice to see Liberals fighting amongst themselves.

Senator Boudreau: The honourable senator is making an assumption that I do not necessarily support. I am sure he does not expect me to reveal the nature of the conversations that took place in cabinet with respect to this decision. I can tell him, however, that as it stands now, I have no indication that the government intends to reverse that decision.

ORDERS OF THE DAY

MODERNIZATION OF BENEFITS AND OBLIGATIONS BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Pépin, seconded by the Honourable Senator Callbeck, for the third reading of Bill C-23, to modernize the Statutes of Canada in relation to benefits and obligations.

Hon. Anne C. Cools: Honourable senators, I rise today to speak to third reading of Bill C-23. First, I should like to express my disappointment that the Senate committee, in its study of Bill C-23, did not take the opportunity to improve this bill. In my speech at second reading on May 9, 2000, I had stated that I believed that the bill was insufficient. At that time, I attempted to point out what I saw to be the major insufficiency. At that time, I had hoped, perhaps naively, that my concerns would find some favour with the Minister of Justice.

• (1410)

Honourable senators, I must say that my concerns did not find favour with the minister, and I have concluded that, for me, favour with the Minister of Justice is an elusive goal. However, as the future unfolds — and as honourable senators here know, I am eternally optimistic — I shall continue to hope that one of these days, my point of view will find favour with the minister.

Honourable senators, I had also stated that I believed that Bill C-23 was poorly drawn and that it was drawn in a way to attract legal challenges, particularly in respect of the very important social institution of marriage. As honourable senators know, there is a clause in this Bill C-23, being clause 1.1, entitled "Interpretation," which reads as follows:

For greater certainty, the amendments made by this Act do not affect the meaning of the word "marriage", that is, the lawful union of one man and one woman to the exclusion of all others.

As honourable senators know, that definition of marriage was taken from the late nineteenth century case called *Hyde*. That clause made its way into the bill as the Minister of Justice responded to many concerns raised in the House of Commons in respect of the possible erosion of the institution of marriage.

Honourable senators will recall that I had said that not just that clause but the entire bill was so drawn as to attract legal challenges, and I am pleased to see that my concerns or fears were confirmed yesterday in debate when the Senate sponsor of the bill, Senator P  pin, essentially made such an admission to us. At page 1569 of yesterday's *Debates*, Senator P  pin said the following:

I agree with EGAL  , who felt that the rule of interpretation exposes Bill C-23 to constitutional challenge. Before long — in fact, it is already happening — gays and lesbians will be asking why marriage is reserved only for heterosexual couples, and the courts will have to decide the matter.

Senator P  pin continued to recite the fact that other witnesses had made similar statements.

My answer to that, honourable senators, at the risk of being naive, is that I am of the opinion that marriage is such an important social institution that Parliament owes that institution its protection, and Parliament owes the maintenance of marriage by its legislative duty and powers.

Again at the risk of being naive, I sincerely believe that it is possible for a government and a minister of Justice, with all the lawyers at their disposal and with the largesse of the treasury, to have drafted a bill that satisfied social concerns in respect of the maintenance of marriage and that, at the same time, satisfied other social concerns in respect of granting to homosexual persons particular benefits and pensions. I do believe it is possible to draw such a bill adequately.

I should also point out that the Department of Justice officials, in their testimony before the committee, made a profound point, which is that benefits are always welcome but obligations are not always equally welcome, and that, in point of fact, the issue of homosexual persons and the obligations they wish to take on had not been sufficiently addressed or perhaps were not as clear.

If honourable senators will recall, in the particular case of *M. v. H.*, in which the Supreme Court ruled in respect to

section 29 of the Family Law Act of Ontario, what emerged very clearly is that at least 50 per cent of that unit — the case involved two women — did not believe that they had given or received spousal obligations and responsibilities. This particular question still has not been canvassed by Parliament and is still begging, to my mind, proper study. The question is: How many homosexual persons really want spouse-like or marriage-like obligations? Benefits are always welcome; obligations are a different matter.

Honourable senators, the question of marriage is one that is meaningful and of great importance to me because it is meaningful and of great importance to the entire community. I sincerely believe that it is our duty to look after that institution because it has been, for a few thousand years now, the primary social institution for procreation and the bringing forth of future generations. It is extremely important that it be protected. In the future, I shall have much to say in this place about the question of marriage.

Honourable senators, I should like to move very quickly to some of the issues that Senator Andreychuk raised yesterday, with respect to the somewhat surprising testimony before the committee on the question of the Cree-Naskapi Nations. Senator Andreychuk articulated yesterday — and I have no need to repeat it — the consistent and persistent neglect of our First Nations people. Again, I should hope and plead that the government look at that issue with greater care and greater attention so that the First Nations are properly consulted before a bill arrives for consideration in the Senate in what I should consider to be a virtually intact form. We heard some excellent testimony from the Cree-Naskapi representatives, and as one who knows very little about First Nations issues and First Nations questions, I was especially touched and impressed. I hope that this particular question will receive proper attention from the respective ministers.

Honourable senators, everyone is quick to talk about the protection of children. Parliament, through the doctrine of *parens patriae*, has a particular responsibility to look after children. The raising of children is an enormous responsibility. I think we are pretty unanimous in believing that any couple or any group of human beings who undertake to raise children are making a contribution to the future of humanity. The dictates of primitive morality have always upheld that the first duty of human beings is to continue the species. For that reason, marriage developed through quite-often tortuous, difficult routes into the institution that we have today. When people set out to raise children, society should accord them all the support it possibly can give.

• (1410)

Having said that, honourable senators, I wish to close by saying, again, that I was profoundly disappointed that the bill chose to employ the drafting techniques that it did and that it chose to employ the words "of a conjugal relationship." I would have been happier had the bill employed, for example, the technique that Mr. James Flaherty, the Attorney General of Ontario, employed in his bill.

I also wish to urge honourable senators to be mindful that these points are not mystical points, neither are they arcane points. In the long run, the question has to do with the acceptance of or the abdication of our responsibility.

Honourable senators, I have a difficult time with Parliament's consistent abdication of its responsibility. It is handing off the duty and the responsibility of making difficult social and public policy decisions to the courts. Parliament is the appropriate forum for the making of such decisions, and I eschew the abdication of our responsibility.

Hon. Nicholas W. Taylor: Honourable senators, some might think that the first cross-pollination effect of senators changing seats has taken place, but I assure you that I was standing for corrections on Bill C-23 back in May.

I, too, am disappointed for slightly different reasons than my seatmate. My particular beef is for couples who are not married and who are not homosexual partners. I was a little disappointed that this bill did not take the opportunity to rectify that situation.

Extending benefits and obligations to common-law partners regardless of their sexual orientation makes sense. In fact, continuing to exclude certain couples because of their sexual orientation would be a direct violation of Canada's rights and freedoms. We are just catching up with the courts in that regard. We are not moving ahead.

In addition, every member of the public service pays the same amount of money for his or her benefits. Thus, it would be unfair to have one policy for one group, such as a legally married group, and another for a second group, an unmarried group, based on the same contributions. Members of the second group, or the unmarried group, would be paying for benefits that they would not receive. They would be paying for benefits exclusively enjoyed by the first group, the married group. The bill fixes that inequality.

Hence, one might ask what my problem is. I have two problems. The first lies in the term "relationships of a conjugal nature" used to define common-law partners who have been living in such a relationship for one year or more. I believe the definition of conjugal relationship is shared shelter, sexual and personal behaviour, services, social activities, economic support and children, as well as society's perception of a couple.

In my opinion, that does not go far enough. For greater certainty, the amendments made by this bill do not affect the meaning of the word "marriage," which is positive. The addition put many minds to rest, but some confusion remains, as with an earlier bill, Bill C-78. The notion of a relationship of a conjugal nature on which to base a common-law partnership is undefined in the legislation.

We shall report to the courts. The courts, I guess, will turn around and refer us to the legal enforcement authorities. We asked the government to stay out of our bedrooms when it came

to heterosexual or homosexual couples. We are now asking the nation to come back in to ascertain whether the couple is really a homosexual couple. After all, two brothers or an uncle and a nephew could be living together. I do not know how we would investigate that situation and how that would fit under conjugal relationships.

Even with this guidance from the courts, there are many different opinions about the exact meaning. We are left to wonder how many of those characteristics would be judged sufficient and who would decide if they were present. It appears that the sexual behaviour characteristic is important. That definition is perhaps the only one, with the exception of children, that really differentiates between college roommates who are good friends, for example, and this notion of a common-law partner.

I am sure everyone agrees that it is difficult for the government to establish whether sexual behaviour is part of a relationship, even if the government decides that this is something it really wants to do. This definition will, therefore, leave Bill C-23 wide open to abuse. Even adamant supporters of the bill have raised this concern to me and have admitted it poses a problem.

One solution that has worked in many other countries has been to refrain from policing relationships or deciding which relationships qualify for which benefits and for which reasons. These countries have established systems called registered domestic partnerships or reciprocal beneficiaries. Certain states in Australia have gone ahead with a system of this nature. Unmarried citizens may name one dependent to be the recipient of their benefits, much as we do with life insurance.

I know senators have heard the argument that such a system might be costly, but I do not think so. Nearly everyone who leaves this world, even if they do not leave a partner, leaves behind someone who will claim the pension. It may be a remote nephew, a relative or a grandson, but there is always some demand for that money. Extra costs to the state would be negligible, if any. I read a report by *London Life* about a year ago which stated that costs may increase by 2 per cent at the very outside.

Therefore, a gay couple could go ahead and name each other, if they wish, or a mother could name an unmarried son without the government intruding or attempting to rule on the exact nature of the relationship. If the mother were to name her unmarried son as her survivor, some needle-nose from the tax department could come in and say that it was not a conjugal relationship.

I find this option much more logical and feasible. From an administrative point of view, it is fair. The major problem in this bill is that despite including one minority group, it still excludes another minority group. It excludes ordinary Canadians who are just as deserving of benefits as any other group. It excludes those Canadians who are in a form of domestic organization other than marriage or a common-law relationship.

Honourable senators, this bill is said to modernize the statutes of Canada in relation to benefits and obligations. I say that it barely catches up to the 20th century. It is said to be a recognition of the current reality in Canada that important, committed relationships exist other than heterosexual couples. Yes, the bill goes part way but not all the way.

What about two brothers working and growing old together on the family farm, or the elderly woman being cared for by her daughter? Many of us know people in situations such as these because they never married or they were married and were faced with the death of their spouse. The current reality in Canada is that many caring, committed, dependent and interdependent relationships, other than couple relationships, are relationships of a conjugal nature.

Unlike the first step on the moon, which was one small step for man and a huge step for mankind, all I can say about this bill is that it is one small step.

Hon. Marcel Prud'homme: Honourable senators, I would ask permission to ask a question of our honourable friend Senator Taylor.

I attended some of the deliberations on the bill. I read almost everything that was said about this bill, and I made suggestions to some members of the committee.

The Minister of Justice "seems" to be instituting a committee to look into everything that Senator Taylor has just said as to the future steps that should be taken.

• (1420)

I know of some senators who have a dependency relationship with a daughter, a mother or a brother or sister. I do not want to get personal in naming names. Those of us who know almost everyone here know about this fact.

In France, they are facing a difficult debate between left-leaning and right-leaning politicians. It was a lady from the "right" who found a solution which she called "pact." "Pact" means any two people who care for each other officially and publicly and wish to share benefits. This helped to deal with all the atrocities put forward in the debate by the many speakers who were adamantly opposed or adamantly in favour of the proposal.

Is the honourable senator satisfied that, at the moment, enough has been said by the government of the day that they will not only study but accelerate future steps that should be taken to have a harmonious society? I talked earlier about one street in the neighborhood of my sister who passed away from cancer some months ago. I did not knock on every door but there were seven people who were directly touched and who could not extend benefits to each other, even though they were known by all of society as living and caring for each other.

In the Red Book, the government stated that it will look into this matter. I have said clearly in committee that there is an aura of unfairness around this issue. However, I do not want to oppose

this bill merely because it does not contain something which I think would make it complete, clearer and fairer.

I have listened to the speeches of the honourable senator. Is he personally satisfied that steps two and three will be taken by the government, or will they only be postponed? Are these just promises concerning a bill that is controversial in many circles? Is it only a promise that will never be fulfilled or is the honourable senator satisfied that the next step will be taken sooner rather than later?

Senator Taylor: Honourable senators, I shall be supporting the bill because it is a step in the right direction. Admittedly, we are moving at a rate of glacial slowness. I say that advisedly as a geologist.

In all fairness to the legal beagles who worked on this issue, in Canada we have property laws. Anything to do with couples which touches on property — and I shall check with some of my legal friends on this — is pretty well the exclusive prerogative of the provincial governments.

The situation is an intricate one and has to be worked out. A number of acts of Parliament will have to be changed. I do not think you can rely on government of any political stripe to move ahead unless you give them a kick every now and again. What we have to do this fall, and again in the spring, is move that agenda along and see if the public wants to move it along. My own feeling is that a large part of the public would like to see accomplished what I have been talking about.

We are happy that we have taken a small step, but we have half a dozen more to take. We shall have to talk to the provinces in the process.

I am satisfied that the problem is in the pot, so to speak. However, I do not know if the gas is turned up high enough to cook it yet, but it is in there and it has started. I am satisfied to that extent. Come this fall or next spring, I may have to show my dissatisfaction again.

Senator Cools: Honourable senators, perhaps Senator Taylor may have some other insights. There are so many strategies that could have been employed in developing this bill. I think the preferred strategy for most of us would have been the one that Senator Taylor raised. He spoke of the issue of dependency and mentioned all persons — brothers, sisters, mothers, all human beings. That was one strategy that could have been adopted. However, the minister chose not to adopt it, even after she told senators before another committee studying 1998's Bill C-37 some years ago that she was intending to go that route.

Another strategy put before her was also outlined by Senator Taylor. I refer to the strategy of framing legislation around the concept of domestic partnerships in relationships. The advantage of such a strategy is that the parties to the relationship have to indicate a commitment to a relationship. After all, that is what is required. Right now, the bill is wide open. How does one determine whether or not a relationship existed? There is no accommodation whatsoever in the bill for a homosexual couple to indicate very clearly that such a commitment was made.

The definition of marriage as outlined in *Hyde* is a very important point because it speaks to the voluntary commitment.

The Hon. the Speaker *pro tempore*: Senator Cools, I am sorry to interrupt, but Senator Taylor's 15-minute speaking time is now exhausted as a result of the questions posed by Senator Prud'homme and yourself.

Senator Cools: I have heard no objections.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I propose that we give leave to extend the time for 10 minutes.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that we extend the time for a further 10 minutes?

Hon. Senators: Agreed.

Senator Cools: Honourable senators, I was in midstream on asking Senator Taylor for some clarifications. A very troubling element of this bill is that it seems to rely on what Senator Taylor called the entry of the state into the bedrooms of the nation. Our former leader Mr. Pierre Elliott Trudeau stated very strongly many years ago that the state does not belong in the bedrooms of the nation.

One of the concerns that has been raised, again and again, about this particular bill is that someone other than the two individuals themselves will have to make a determination as to whether a conjugal relationship existed. It would have been much better to see a formalized, voluntary agreement or statement made by the individuals themselves.

Does the honourable senator have any insight into why, in the face of these different choices, the minister rejected those strategies, one strategy being the economic dependency for all relationships and the other strategy being domestic partnerships, and opted for the particular option that is in Bill C-23?

Senator Taylor: No, I do not, although I must admit that the minister is part of our Alberta caucus and, occasionally, we exchange opinions.

The minister is quite aware of the problem. She did alter the bill somewhat when it went through the other place to strengthen the definition of marriage and marriage for children, which is very much the same as the old Christian philosophy dating from the year 600 or 800. I believe that it was decided at the Council of Trent that marriage was for children. That has been repeated some 1,200 years later, which is probably a good idea.

I think the Honourable Senator Cools is talking about how we shall determine whether a relationship between a homosexual couple is conjugal, which leaves an opening for the police state to look into the matter.

• (1430)

I believe the minister's approach to the problem was to talk to the provinces first and then come back. My approach would be to

put it out there until the provinces either agree or disagree. This is an issue in which the provinces must be involved because of the property rights associated with marriage and other types of unions or partnerships. I should like to have seen more leadership in that respect.

Senator Cools: Honourable senators, perhaps I should suggest to all concerned that Senator Taylor be the new minister of justice.

Senator Taylor: Man doth moveth here!

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

[Translation]

Hon. Roch Bolduc: Honourable senators, I request that my dissent regarding this bill be recorded in Hansard.

[English]

Motion agreed to and bill read third time and passed, on division.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw to your attention some distinguished visitors in our gallery from Bulgaria. They are members of the Bulgarian Parliament.

On behalf of all honourable senators, I wish you welcome here in the Senate of Canada. May your stay in Canada be a pleasant one.

CAPE BRETON DEVELOPMENT CORPORATION DIVESTITURE AUTHORIZATION AND DISSOLUTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Boudreau, P.C., seconded by the Honourable Senator Graham, P.C., for the second reading of Bill C-11, to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts.

Hon. John Buchanan: Honourable senators, I shall try not to repeat much of what I said yesterday, but inevitably there may be a repeat of some of my comments. Since speaking yesterday, I have had some people mention to me that they thought some of the comments I made were incorrect, particularly with respect to a new coal mine in Cape Breton and the feasibility of such a coal mine.

Before getting into that, I want to repeat that the first issue before us is what will happen to the 900 miners who have been left in a hinterland — some of whom will be employed at the Prince colliery and others who will be on severance.

Honourable senators, let's talk for a minute about what the Government of Canada is proposing. The government is proposing to sell all of the assets of the Cape Breton Development Corporation and get out of the coal mining industry. I said yesterday that I have no problem with that proposal. It has been coming for many years, and we understand and appreciate the reasons. However, it seems incredible that at a time when unemployment is high in Cape Breton, we shall add to that unemployment when we should not be doing so.

It is important that all honourable senators understand the following, and I shall repeat what I said yesterday so that it is very clear. First, a considerable tonnage of coal that can be mined economically and feasibly remains in the ground in Cape Breton. Second, there are miners in Cape Breton ready, willing and able to continue work in a new coal mine. Third, the opportunity for a new coal mine in Cape Breton will probably be lost if the federal government goes ahead with its plan to sell all of its assets to an offshore company or to a company in the United States. One such company is located in Florida, and I do not think there are many coal mines in Florida.

Honourable senators, I have been told that the opportunity for a local company to develop a new mine in Cape Breton to supply the Nova Scotia Power Corporation is real. I have been told that regardless of whether the assets of Devco are sold to a company in the United States, this mine could go ahead.

That is just not correct, honourable senators. If we look at the opportunity available to a new owner of Devco's assets, we find some startling information. As I mentioned yesterday, the assets include Prince colliery, the Donkin mine site, the resource block, the railway and railway maintenance centre, the deep-water port, the coal preparation plant, the lifting and banking setter, and the central maintenance facility. All of those assets are included, plus the investment highlights of the long-term supply agreement for coal to the Nova Scotia Power Corporation.

Why is it that the government stresses in its bidding process the long-term supply agreement with Nova Scotia Power? The only possible way that would interest an owner from Florida is that they would be able to supply the requirements to the Nova Scotia Power Corporation with offshore coal, or coal from the United States or Colombia. If we read the agreement, it says that the new owner of the Cape Breton Development Corporation assets will need to come to an agreement regarding future contractual arrangements with Nova Scotia Power Inc. A letter of

intent profiles the requirements of the long-term agreement in existence now, plus new contractual relationships with Nova Scotia Power.

Honourable senators, why is the Government of Canada stipulating in a bidding proposal that one of the great assets that will be sold to a new investor, and probably an investor in the United States, is a special-purpose bulk terminal facility located in the large sheltered harbour of the Cape Breton Regional Municipality and owned and operated by the Cape Breton Development Corporation? Senator Boudreau, Senator Graham, Senator Murray and I know where it is located, and it is first class. The CBDC facility gives direct water access to customers and suppliers located in the Great Lakes Basin, the Eastern Seaboard, Europe and Asia. It was recently expanded to accommodate Panamax-size carriers with a capacity of 60,000 to 70,000 tonnes. The facility was recently upgraded, at a cost of \$1 million, to provide an importation capability. As such, the CBDC facility is ideally suited for the importation and delivery of the incremental coal requirements of Nova Scotia Power Inc., those being the requirements of Nova Scotia Power over and above what can be produced at Prince colliery. In the range of 2 million tonnes of coal will now be imported into Cape Breton to fulfil the requirements of the Nova Scotia Power Corporation.

• (1440)

It is not a bad deal for a company in Florida to not only buy the assets of the Cape Breton Development Corporation but to also get a long-term contract to supply coal to Nova Scotia Power. It is an exclusive deal. In addition, they will buy the port facilities through which they can bring the coal in, unload it, and deliver it to Langan 1, 2, 3, 4, the Trenton power plant and the Point Aconi generating plant.

Yesterday, honourable senators, I mentioned the mines that were opened in Cape Breton in the late 1970s and early 1980s. I referred to Phalen, Langan and Point Aconi. I meant to say Prince colliery. Point Aconi is where the generating plant is located.

You might say that that is available to Nova Scotia companies which will employ Cape Breton miners, who are certainly well equipped to mine coal. That is wrong. It is not available. The Government of Canada had ensured that it is not available to Nova Scotia companies or to Cape Breton miners.

Honourable senators, I shall read to you a proposal dated May 17, 2000, put forward by the Cape Breton Miners' Development Co-operative Limited. Some very knowledgeable Scotians are involved, including Aubrey Rogers, a chartered accountant well-known to Senator Boudreau; Dougie Burns, a well-known Cape Breton contractor, excavator and businessman; Jim Gogan, retired former president and CEO of the Empire group of companies, one of the very successful organizations in Atlantic Canada; and Steve Farrell, a mining engineer extraordinaire, something no one in this Senate can challenge. In particular, none of Senator Boudreau, Senator Graham nor Senator Murray would challenge that fact. They and I all know very well the history of mining and the people involved.

Why do these very competent businessmen, engineers and consultants not have the opportunity that will now be given to an American company to import coal into Cape Breton?

The first page of the introduction to this proposal reads:

The Cape Breton Miners' Development Co-operative Limited was formed in 1998.

The Co-op believes there is a long term viable future for coal mining in Cape Breton and that the Co-op has an important role to play to ensure coal mining's success in Cape Breton.

This is being said by great Nova Scotian businessmen who know the mining industry.

The Co-op presented a bid for all of DEVCO's assets but were turned down —

— that is, turned down by the Government of Canada —

— because the Co-op did not have management.

I challenge members on the other side, including my two Cape Breton colleagues, to say that the people I just mentioned do not have good management skills.

Hon. B. Alasdair Graham: May I ask a question for clarification?

Senator Buchanan: Certainly.

Senator Graham: The honourable senator is correct that he has an in-depth knowledge of coal mining in Nova Scotia. He just said that the aforementioned group was turned down by the Government of Canada. Though I believe Senator Buchanan to be absolutely correct in his description of the group, he should clarify that their bid was turned down by Nesbitt Burns, the agent hired by the Cape Breton Development Corporation, which is a Crown corporation operating at arm's length from the Government of Canada. It is Nesbitt Burns that did not include on the short list the group that Senator Buchanan mentioned. I say that simply for purposes of clarification.

Senator Buchanan: For purposes of clarification, Senator Graham is partially correct. However, is he saying that Nesbitt Burns, on its own, turned down a group of Nova Scotians that, I think he will admit, has great business expertise and competence, not only in business and consulting but also in mining and engineering? Let us be frank. Senator Graham and I know why they were turned down. They were turned down because the Government of Canada decided that it does not want Nova Scotians involved in coal mining again. The government prefers to turn it over to someone in the United States or elsewhere who will leave us alone and never bother us again. That is why the bid was turned down, and Senator Graham knows that is why it was turned down.

The Hon. the Speaker *pro tempore*: I regret to interrupt the Honourable Senator Buchanan, but his allotted time has expired.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I suggest that we agree to extend Senator Buchanan's time by 10 minutes.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators, to extend the time allotted to Senator Buchanan by 10 minutes?

Hon. Senators: Agreed.

Senator Buchanan: Honourable senators, Donkin Resources Limited is an integral part of the Cape Breton Miners' Development Co-operative Limited. This proposal was not something they put together on the spur of the moment. If it had, I may not have given it much credence. However, Donkin Resources has been involved in this project since 1997. The Donkin mine has a large coal reserve and an experienced workforce. No one on that side would deny that the miners of Cape Breton are experienced. It is a coal mining community and it has local markets. There is an exclusive market for coal in Nova Scotia, and primarily in Cape Breton with its five generating plants.

The co-op's project was verified by SNC Lavalin, Kilborn Engineering, CBCL Limited, and Grant Thornton on the financial side. These are not small local groups put together by Steve Farrell, Jimmy Gogan, Aubrey Rogers and Dougie Burns. They and I have talked to consultants such as Bill Shaw of Antigonish, one of the better known geologists in Nova Scotia, and other world-class consultants.

• (1450)

What is involved here? Approximately 1.2 million tons of coal can be mined from this reserve. It will now be given away to an American company which will never develop it because as brokers they can sell their own coal to Nova Scotia Power, and the Cape Breton miners will be unemployed.

The capital cost is \$143 million spread over 20 years, and that money would be recovered by the sale of coal to the Nova Scotia Power Corporation. The cash flow requirement is \$70 million. Someone said to me last night, "There is the rub. They will want the federal government to give them \$70 million." No, not at all. They have already had verification that the \$70 million can be raised privately. Does that surprise the government? No, it does not, because you already knew that.

The government also knows that they will not be able to get \$70 million from banking institutions unless they have the contract with Nova Scotia Power Corporation as security, and that is not available to them. I have already shown honourable senators, in the call from Nesbitt Burns, that that is part of the deal for the American group. That group will get the contract and leave all of our native Cape Bretonners and Nova Scotians out in the cold, so to speak. The local group will not have the opportunity to raise the money because they would not have the security of the Nova Scotia Power Corporation contract.

What do they need? First, the investors will not put money into an old Devco regime. That is taken for granted. However, they will put the money into a new company called Donkin Resources Limited which will also be part of the Cape Breton Miners' Development Co-operative. They will need a modern labour agreement, which they have already indicated they will be able to receive.

Will they be able to market the coal? Absolutely. The Nova Scotia market is 3 million tons of coal. Where will they sell it? To the Nova Scotia Power Corporation. The Prince mine will provide 1.2 million tonnes. Nova Scotia strip mines will provide approximately 400,000. Therefore, there is an available market for the new coal mine of 1.4 million tonnes. In addition to that, they can also look forward to expanding by another 1 million tonnes to compete in spot export markets. That is not an absolute requirement, but it is a big plus for them.

Yes, I have been on the phone, and I have had a few people from Cape Breton in my office. I had a call from an individual who said, "Listen, you are beating a dead horse here because all the generating plants in Cape Breton will be powered by natural gas. You know, Buchanan, you are the one who should agree, because you shoved and pushed and signed agreements all through the 1980s for natural gas to come to shore in Nova Scotia."

That is true, but natural gas will not be economical for the power corporation. Here is a chart showing price estimates for natural gas and Donkin coal in Nova Scotia. I can show this to senators who are interested later. Based on Canadian dollars per million BTUs the chart indicates, very clearly, that natural gas is over \$4 and that Donkin coal is a steady \$2. This chart was made before the recent increases in the cost of natural gas. The power corporation has already said they will not be converting all those big generating plants built in the 1970s and 1980s to natural gas. The cost would be incredible. Coal still provides the best economics for them. It is all here.

They can increase the generating capacity of Nova Scotia Power by 20 per cent, if need be, with this new coal supply. If my dear friend Elizabeth May reads this, which she will, she knows that our generating plant at Point Aconi reduces SO₂ by 90 per cent. It is not just me saying this; it is right here in the Nesbitt Burns report on the Point Aconi Generating Plant.

Here is another interesting point. Donkin coal and Prince coal working together will reduce greenhouse gases in Nova Scotia. It is right here. All the charts are right here. That is about all I shall say.

I just want to read something to you. Remember that we are talking about the lives of 1,000 men and their families in Cape Breton, Senator Boudreau and Senator Graham. I have no doubt that the honourable senators have been getting these letters. I have one of them here. This is to all members of the Senate, care of myself:

It is with great urgency I am writing this letter. This is, without a doubt, the most important issue to fall upon Cape Breton in years. I am referring to Bill C-11. The bill must be

stopped now. The original Devco Act assured some stability in Cape Breton, especially in section 17(4)(b)...

I referred to that section yesterday, which says that the federal government must do everything reasonable and possible to avert unemployment in the coal mining areas of Cape Breton when coal mines close.

It is difficult to determine the actions of Ottawa and their attitude toward islanders.

How do you change the rules midstream without consulting the stakeholders?

Ottawa is relinquishing all responsibility to laws they themselves implemented and voted on in 1967.

I think that if the Honourable Allan J. MacEachen were here, he would certainly agree with what is in this letter. However, he is not here, so Senator Boudreau, Senator Graham, myself, and Senator Murray will have to fight the good fight ourselves. The letter goes on:

They took their ideas to Cape Breton and people signed on...

Now it seems that, after giving the best working years of their lives, they have been discarded at the whim of Ottawa with a mere stroke of the pen.

The Hon. the Speaker pro tempore: Order. Senator Buchanan, I am sorry, but your speaking time has expired.

Senator Buchanan: May I finish this last paragraph?

The Hon. the Speaker pro tempore: Yes.

Senator Buchanan: Thank you. The letter continues:

Since the 1967 Devco Act, 7800 people received retirement benefits. There are 904 people left, most of whom have well over 20 years accumulated service. Shouldn't we fall under the same legislation?

My wife and I are near approaching 50 years of age. I have 23 years with Devco. How can I convey to you how fearful we are at the prospect of having to start from scratch?

Like most people, we have mortgages and bills. We pay for university and have accepted the sad fact that our children will probably exercise their brain power off the island.

Dear Senator Buchanan, hope for Cape Breton is waning at a rapid speed. Desperation forces me to implore you to please read this letter into the record and intercede on behalf of islanders.

It is signed by Donald MacKay, 4 Fortune Street, Scotchtown, Cape Breton Island.

Honourable senators, people like Mr. MacKay and the others are not looking for severance. They want jobs. However, if the jobs do not come to them, they want the severance, and then they want the opportunity to go and look for jobs. The jobs are there in Cape Breton if you would only listen to what the miners are saying and what the Cape Breton co-op group is saying, along with Donkin Resources.

Hon. J. Bernard Boudreau (Leader of the Government): I wonder if I might have leave to extend time for one short question.

The Hon. the Speaker *pro tempore*: Is leave granted to extend time for one short question?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: And one short answer.

Senator Boudreau: Once the honourable senator hears the question, I am sure his answer will be just as brief.

• (1500)

The issues the honourable senator raises are interesting and perhaps might be addressed very productively in committee, but, if it were discovered that the Donkin Resources proposal should move ahead, would it not be necessary to pass this bill first? In fact, if this bill were not passed, it would be legally impossible for that proposal to proceed.

Senator Buchanan: I disagree 100 per cent with that, honourable senators. What the government is asking us to do here is to buy a pig in a poke. They are saying, "Oh, yes, pass this bill, get it out of the way, and then we shall look after Cape Bretonners." That is a lot of nonsense, and the honourable senator knows it. Let us clear up these unknown quantities now. Why not take a leap of faith and support Cape Breton businessmen, Nova Scotia businessmen, Nova Scotia mining engineers and Cape Breton miners? That is what must be done.

Hon. Lowell Murray: Honourable senators, I understand the leadership on both sides have decided that they would prefer at this point to proceed with another bill. That is fine. I, therefore, will propose the adjournment of the debate on this bill and speak tomorrow.

On motion of Senator Murray, debate adjourned.

INCOME TAX ACT EXCISE TAX ACT BUDGET IMPLEMENTATION ACT, 1999

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Poulin, seconded by the Honourable Senator Mahovlich, for the second reading of Bill C-25, to amend

the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999.

Hon. J. Trevor Eyton: Honourable senators, while for a time it was looking like I would not have this opportunity because of the Cape Breton discussion, I am pleased to respond to Bill C-25 on behalf of the official opposition. Most of the measures in this bill date from the February 1999 budget, some 16 months ago. Once again, this April, Canadians were asked to file their tax returns and remit taxes on the basis of tax changes that were not yet law. Why does it take so long to bring tax changes before Parliament? I suppose one reason is that our tax code is getting so complicated, even the government's drafters cannot figure it out.

This bill does provide some welcome tax relief, albeit modest, but neither Bill C-25 nor the February, 2000 budget will provide the significant tax relief needed to make Canada a truly competitive place in which to invest and to make a living.

Honourable senators, the government tells us that, even with an \$8-billion surplus last year, it cannot afford more meaningful tax cuts now. Remember, honourable senators, that surplus was achieved in spite of demonstrable waste in HRDC and otherwise. That was handily overwhelmed by projected record revenues amounting to some \$165 billion, \$48 billion over its annual revenues when the government took office in 1993.

Honourable senators, the plain truth is that we cannot afford to continue to have tax rates that are among the highest in the OECD. How can we compete on an even footing when our corporate tax rates continue to be the second highest in the industrialized world, and will be for at least another five years?

On the personal tax side, we also have a promise of significant tax cuts, but not just yet. Canadians will continue to face personal tax levels that are out of line with those of our major competitors. How can we expect to keep our best and brightest here in Canada when they can readily add tens of thousands of dollars to their take-home pay just by leaving the country? How can we expect head offices to stay in Canada when our personal tax system makes it more costly to recruit and retain managerial and professional talent?

Honourable senators, a few weeks ago, there was a very short-lived rumour that Microsoft might move its head office to British Columbia, presumably to escape a court-ordered breakup. There is a fat chance of that ever happening, for the obvious reason that the take-home pay of Microsoft's management team would take such a significant hit that Microsoft would have to pay its people considerably more for them to achieve the same after-tax income.

Honourable senators, high taxes is one of the main reasons so few of the world's largest corporations choose to locate their head offices in Canada. Do you want to know why so little research and development is done in Canada, or why Canada is seen as a great place to build a branch plant but not a great place to locate your head office? Take a close look at our Income Tax Act and you will have much of your answer.

Today, more than two out of every five dollars we Canadians earn comes from exports. Trade is our bread and butter. To compete in this global, knowledge-based economy, we must have a competitive tax system that rewards risk.

Honourable senators, beyond measures from the 1999 budget, this bill also sets out tax rules for those who receive shares as a result of mutual life insurance companies going public. This particular aspect of Bill C-25 shows why we need to rid ourselves of capital gains taxes. For those who may be unfamiliar with the subject, a mutual life insurance company is one that is owned by its policyholders. These companies are now demutualizing, which basically means they are now to be publicly held by shareholders who were formerly its policyholders. As part of this process, existing shareholders are being given shares they can hold or sell in the marketplace.

Without Bill C-25, these policyholders would have had to include right away the value of shares they received as income, even though it is a paper transaction and they in reality are no better off. However, wait one moment! The government may look generous by allowing them to hold off paying capital gains taxes until the shares are sold, but Ottawa will still get its piece of the action, only not right away.

Honourable senators, most of these new shareholders have never held anything riskier than a GIC or a whole life policy, or if they are in the market it is through an RRSP mutual fund. Capital gains taxes are unknown to them. They are in for a shock when they sell their shares because they will get an education about capital gains taxes that will cause them to think twice before buying shares in other companies. In short, they will have a first-hand lesson on how capital gains taxes destroy the incentive to invest.

Of course, some of these new shareholders have been warned about the capital gains tax and are holding off selling their shares. These shareholders are getting a first-hand lesson on what is known as the "lock-in" effect. That occurs when there are more productive or more suitable investments available but because selling shares generates a certain sure tax cost, they do not sell. The result is that more productive or more suitable investments are not made because the existing investments are locked in by the tax system. The irony is that the federal government is the big loser, as the tax revenues that might have come from greater levels of employment and profits arising from new investments simply will not materialize.

Honourable senators, tax policy should work to ensure that more productive investments do get made, and that means a competitive tax system that rewards risk and does not discourage productive new investments.

As for Bill C-25, it is a small, positive step that I shall support, while at the same time wishing it was earlier in its implementation and more generous in its provisions.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

• (1510)

SIR WILFRID LAURIER DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. John Lynch-Staunton (Leader of the Opposition) moved the second reading of Bill S-23, respecting Sir Wilfrid Laurier Day.

He said: Honourable senators, the purpose of Bill S-23 is similar to that of Senator Grimard's who asks in his bill that January 11 be declared Sir John A. Macdonald Day.

Bill S-23 is to give recognition to a Canadian prime minister whose political leanings, while the opposite of Sir John's, were secondary to the total dedication which he shared with his country's first prime minister to maintain and solidify the unity of Canada.

The two bills should not be evaluated with partisan arguments — does it really matter today that Macdonald was a Conservative and Laurier a Liberal — but on their achievements, for it is no exaggeration to say that without their leadership and deep commitment to nation-building, Canada would not be the country it is today. In their book, *Prime Ministers*, J.L. Granatstein and Norman Hillmer write the following:

Laurier's great ambition was "to consolidate Confederation, and to bring our people long-estranged from each other, gradually to become a nation. This is the supreme issue. Everything else is subordinate to that idea."

So ends Laurier's own words. The book continues:

Canada has to be made strong enough, economically and politically, to have a life apart from Mother Britain. Sir John A. Macdonald's work of nation-building must be completed as a matter of urgency, before it all fell away. The challenge was to establish a consensus of moderate French and English opinion for sane national programs of the middle ground. The extremists could crusade on their own.

In her book, *Sir Wilfrid Laurier*, subtitled *The Great Conciliator*, Barbara Robertson quotes from a speech given in Saint John during the 1911 election campaign in which Sir Laurier said:

I am branded in Quebec as a traitor to the French and in Ontario as a traitor to the English. In Quebec I am branded as a jingo and in Ontario as a separatist. In Quebec I am attacked as an imperialist and in Ontario as an anti-imperialist. I am neither. I am a Canadian. Canada has been the inspiration of my life. I have had before me a pillar of fire by night and a pillar of cloud by day a policy of true Canadianism, of moderation, of conciliation.

[Translation]

It is entirely fitting that Canada give special recognition to two prime ministers whose efforts made Canada what it is today.

Without them, Laurier as a great builder in the tradition of Macdonald, Canada would perhaps not enjoy the reputation for excellence of which it can be justly proud.

Laurier made fierce enemies, both in Quebec and in Ontario, with his steadfast refusal to give in to the demands of extremists in the two provinces. In the end, this attitude of conciliation and compromise, coupled with the wearing effect of 15 years in power on his government, cost him the 1911 election. He lost power, but remained true to his principles.

As part of the national program to recognize the grave sites of all prime ministers buried in Canada, a ceremony will soon be held at the grave site of Sir Wilfrid Laurier in Notre Dame Cemetery in Ottawa.

The Department of Canadian Heritage deserves our congratulations and gratitude for this policy of respect, which also fulfils the objective of informing Canadians about the contributions made by those who shaped their country's history.

The bill before us, like Senator Grimard's, is another form of recognizing two great men, whose devotion to Canada's development, in a spirit of unity and respect for all its inhabitants, throughout the land, should be a model for anyone who agrees to serve his country.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator DeWare, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

On motion of Senator Hays, debate adjourned.

[English]

COMMITTEE OF SELECTION

SEVENTH REPORT ADOPTED

Leave having been given to proceed to Reports of Committees, Order No. 7:

The Senate proceeded to consideration of the seventh report of the Committee of Selection (membership of Special Committee

on Illegal Drugs) presented in the Senate on June 13, 2000.—(*Honourable Senator Mercier*).

Hon. Léonce Mercier: Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— REFUSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL—INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poulin calling the attention of the Senate to the decision of the Ontario Government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.—(*Honourable Senator Carstairs*).

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, this is a motion standing in the name of the Honourable Senator Carstairs. I know she wishes to speak to it, but it is at day 14. Senator Carstairs is occupied on parliamentary business and is unable to be here today or tomorrow. Thus, to ensure that she has an opportunity to speak to this inquiry, I request that the time provided for addressing it be extended by going back to day one.

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Order stands.

SUDAN

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wilson calling the attention of the Senate to the situation in the Sudan.—(*Honourable Senator Andreychuk*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, this inquiry is also at its fourteenth day. We are all aware of the important leadership work that Senator Wilson has been doing on behalf of Canada with reference to problems in the Sudan. Indeed, I think in the next few days Senator Wilson will be off on another mission dealing with the Sudan. I know that my colleague Senator Andreychuk wishes to address this matter and has been preparing her notes. If we could return this item to day one, it would be appreciated.

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Order stands.

CANADIAN BROADCASTING CORPORATION

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poulin calling the attention of the Senate to the

Canadian Broadcasting Corporation.—(*Honourable Senator Bolduc*).

Hon. Roch Bolduc: Honourable senators, this order stands in my name, although I shall not be speaking to it. I believe Senator Callbeck would like to speak to it. May I ask that it be stood in her name?

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

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(HANSARD)

Thursday, June 15, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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THE SENATE

Thursday, June 15, 2000

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before we start, I direct your attention to a distinguished visitor in the gallery. He is Jean Malaurie, the founder of the Centre d'études arctiques of the Centre français national de recherches scientifiques.

[English]

Professor Malaurie is an author and a publisher. He is here as a guest of our colleague the Honourable Senator Charlie Watt.

[Translation]

On behalf of all honourable senators, I welcome you to the Senate and hope your visit to Canada is an interesting one.

[English]

Before I call for tributes to our colleague the Honourable Senator Grimard, I should like to note that Madam Grimard and their son, Marc, are in the gallery on this occasion.

Hon. Senators: Hear, hear!

[Translation]

THE HONOURABLE NORMAND GRIMARD, Q.C.

TRIBUTES ON RETIREMENT

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, in September 1990, Prime Minister Mulroney, in the face of an unprecedented obstruction — unprecedented in both its ferocity and its doggedness — by the Senate majority of the day of a government bill, decided to invoke section 26 of the Constitution and appointed eight senators in order to break the impasse.

Never have senators been welcomed with such criticism, ridicule, indeed offence. In all of the Senate's history, this period was surely the most shameful, with civility giving over to offensiveness, and courtesy to rudeness.

(1410)

Today, these eight senators, each in their own way, are recognized as having contributed jointly and severally to the work of the Senate in a way that brings honour to this house.

I recall this time because today, we mark the departure of the first of the eight, who, tomorrow, becomes the victim of the mandatory retirement provision of the law. Senator Grimard took a few hard punches in his first weeks with us, but those who had fun at his expense quickly learned that their target was stalwart and a match for anyone.

[English]

I am sure that I am not the only one here who remembers vividly Senator Grimard's forceful intervention during the GST debate aimed at the then leader of the opposition who, for one of the few times in his career, retreated into stunned silence.

Senator Grimard has brought to the Senate a vast experience in law and in politics, which he has put to good use, in particular on the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations and on the Standing Committee on Privileges, Standing Rules and Orders. His wide knowledge and intellect have allowed him to write on a variety of topics, such as Senate reform, Crown corporations, the Canadian family, Canadian identity and professional sports. His talents even extend to the movies, as he was reported to be featured in a short documentary entitled *The Senate at Sunset*, which, unfortunately, is only available for private viewing.

Seldom has a senator enjoyed the friendship and even affection of colleagues on all sides, both here and in the other place, as has Senator Normand Grimard. His generosity and warmth are among the many traits that we will all miss. His knowledge of gastronomy has made many of us more appreciative of fine food and manufacturers of anti-cholesterol drugs more profitable.

Senator Grimard's willingness to travel to far away places at a moment's notice was a credit to the Senate. He will be missed as much by future official delegations and host countries as by five-star restaurants around the world. As a matter of fact, I understand that more than one embassy will have their flag at half-mast tomorrow.

[Translation]

Although it is with much regret that we say goodbye to our esteemed colleague, we take solace in the knowledge that our friendship will stand the passage of time.

I cannot conclude without saluting and thanking Normand's wife, Dolly, who is in the gallery with one of their three children, their son, Marc. Dolly always provided exceptional support to Senator Grimard in his public life, to the point that she, too, deserves to be called honourable.

[English]

Normand, may you enjoy many years of retirement from this place. You have certainly earned them.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, my friend Senator Normand Grimard, as Senator Lynch-Staunton observed, came to this place at a time of, shall I say, creative tension. He came, and as we now fondly know them, as one of the GST senators. Senator Grimard has done a great deal, immediately after that time and since, to contribute to a sense of normalcy and camaraderie in this place.

[Translation]

When he came to the Senate, Senator Grimard left behind him a brilliant career in law, in Quebec. He was appointed Queen's Counsel in 1959 and he built an enviable reputation through his work in mining law at the *Chambre de commerce du Québec* and in the business world in general. Senator Grimard has done a lot of travelling, and is a philanthropist and a man of great culture. This is what I will remember most about him.

[English]

The time I have spent with Senator Grimard, without fail, has been memorable and enjoyable. His "joie de vivre," knowledge of food and wine, general good spirits and diplomacy have always been welcome additions to our efforts to represent Canada.

Senator Grimard has the advantage of being married to the vivacious and always interesting Dolly. Together, they form a couple who make great partners in life. I am sure that all of us who know them are grateful for the experience of knowing them and having the opportunity to share that experience with them.

Senator Grimard made the most of being well travelled and well read, as has been observed by Senator Lynch-Staunton. He extended that by frequently contributing articles to the local Quebec newspapers so that his constituents knew what he was up to and would benefit from his insights into a variety of matters, including Senate reform. He deserves our congratulations for writing the book *L'indispensable Sénat: défense d'une institution mal aimée*. He has also contributed to our understanding and furtherance of our pluralism through issues involving multiculturalism, employment and foreign affairs.

Honourable senators, Senator Grimard represents the best of the Senate. He is, I believe, an ideal senator. His pleasant demeanour, good sense of humour and non-partisan nature have made him not only well liked but effective and persuasive in pursuit of the public good. Senator Grimard is a senator's senator and he stands for what we are at our best when the camaraderie of this place extends to all corners of the chamber.

I will miss you, Senator Grimard. All the best to Dolly and yourself in a long and happy retirement. Do not forget the good life that you so ably represent.

[Translation]

Hon. Lowell Murray: Honourable senators, I just want to say a few words to express my respect and admiration for our friend Senator Grimard. As former Leader of the Government in the Senate, I have many reasons to remember with gratitude his dedication and his loyalty. Normand Grimard arrived in the Senate in 1990, at the age of 65, at an age when many of his Bar colleagues think about retiring from professional life.

However, far from considering his appointment to the Senate as a sinecure, Senator Grimard embraced parliamentary life with energy and enthusiasm. For ten years, all his energy, intellectual gifts, experience and talents were at the service of Parliament and his country, Canada.

Thanks to Senator Grimard's participation, the debates in the Senate and in several important Senate committees benefited in terms of clarity, depth and quality. Senator Grimard deserves respect and, as Senator Hays just mentioned, he is a friend to us all, and we are all grateful for this.

[English]

Progressive Conservative senators in particular are honoured to have had him as a colleague. He has done the Senate and Parliament proud. He has always sought to serve and defend the national interest of Canada. Senator Grimard well deserves our gratitude and respect. We extend our very best wishes on his retirement from this place to him and to his family.

[Translation]

(1420)

Hon. Gérald-A. Beaudoin: Honourable senators, Senator Normand Grimard had carved out a career in law in Quebec before he came to the Senate ten years ago. He earned recognition as an excellent legal practitioner by the Quebec Bar Association. A pragmatist, characterized by his good judgment, he rapidly developed a good client base and was extremely influential in his community.

A man with a great interest in politics, he was appointed to the Senate by Prime Minister Brian Mulroney in September 1990. He has made a remarkable contribution to the Standing Joint Committee on Scrutiny of Regulations. This committee does some very difficult and very essential work — for which it is not given enough credit. I congratulate Senator Grimard, for he and Senator Lewis, who retired last November, were pillars of that committee.

I would also like to point out that he is the author of *L'indispensable Sénat: défense d'une institution mal aimée*, which merits our attention. In it, he tells not only of his career, but also of certain events that have taken place in the Senate, such as the business of the eight so-called "Divisional Senators," of which he was one, and the famous GST debate.

In his book, Senator Grimard staunchly defends the Senate and proposes a Triple V reform: in French "viable, vraisemblable, valorisante." The key principles of such a reform to make the Senate "viable, plausible and motivating" are the following: an Senate equal by region; a Senate appointed fifty-fifty by Ottawa and the provinces; a Senate with 130 senators, of whom 65 would be Ottawa appointments, and with a ten-year mandate.

Our colleague has left his mark on the Senate and we are extremely grateful to him for it. I wish Senator Grimard, his charming wife Dolly, and his family, a long life together, good health and many happy days.

Hon. Jean-Claude Rivest: Honourable senators, I should like to join with the rest of the Senate in honouring our friend Normand Grimard.

Of course, his contribution to the business of the Senate must be addressed, but it is also important to remind honourable senators that Senator Grimard comes from Abitibi, an area of Quebec that does not always attract the attention its population deserves, from either the Quebec National Assembly or the federal government and federal Parliament.

As Senator Grimard is now obliged to leave public life, it must be pointed out that the needs of his fellow citizens in the Abitibi region remain as pressing as ever and that, with his retirement, they are losing a spokesman emeritus.

Senator Grimard has tried to convince me of the merits of one of his great political mentors, former Quebec premier, the Honourable Maurice Duplessis. He has worked hard to convince me, a member of the Liberal Party of Quebec, of the merits of this premier. As he reaches the age of retirement, he will recognize it. Senator Grimard has still not quite succeeded in convincing me. I cannot say he succeeded, because by so doing I could put an end to my long friendship with Senator Bacon, who has very definite opinions on Maurice Duplessis.

You will no doubt have an opportunity to come back and visit us. Perhaps you will be able to continue your efforts to convince me. Like all the honourable senators, I would be very happy to welcome you here, because we all appreciate your kindness, your devotion and your friendship with each and every member of this house.

Honourable Senator Grimard, I wish you and your family a happy retirement and I look forward to seeing you again.

Hon. Roch Bolduc: Honourable senators, I met Senator Grimard 55 years ago. It was during the Second World War, and we were boarding at the Trois-Rivières seminary, which was the classical college of the Saint-Maurice region.

Normand was a few years ahead of me, and as one always has a certain admiration for those older, I was impressed by his eloquence, because he was the best speaker in the college. I recall his flamboyant speeches, in the language of the classics taken directly from Bossuet. Like all young people of the 1940s, we were very impressed by politicians who could move people.

Henri Bourassa, naturally, set the standard, but Adélard Godbout and Maurice Duplessis were excellent speakers as well. The latter noticed young Grimard and became a sort of protector for him. Senator Grimard's very successful law career was built on the strength of his own abilities.

Not that this prevented him from indulging his passion for baseball and hockey. He was close to the players and trainers of the Canadiens and the Expos. His homes are veritable museums of Montreal's sports jet set.

For ten years in the Senate, in a somewhat obscure but very important role, Senator Grimard kept a watchful eye on federal regulations, ensuring that the administrative machinery stayed within the legislative boundaries assigned to it by Parliament. This is a very important job when it comes to guarding the public interest and ensuring the freedom of citizens.

Thank you, Normand, for this major public service, and enjoy golfing with Dolly in the years to come.

[English]

Hon. Jack Austin: Honourable senators, the involuntary retirement from the Senate that Senator Grimard is about to experience also brings about his retirement as Deputy Chairman of the Standing Committee on Privileges, Standing Rules and Orders.

I have had an association with Senator Grimard in that capacity now for several months, and I want to acknowledge his steady judgment, patience and grand advice to me on the handling of its many interesting issues.

Senator Grimard, you will be missed.

Hon. Joyce Fairbairn: Honourable senators, I, too, wish to add my voice to the tributes to Senator Grimard this afternoon as, sadly, we say farewell.

One thing that has struck me over the years — and Senator Hays mentioned this — is Senator Grimard's spirit of goodwill and friendship, which has extended to every part of this chamber. Certainly, it extended to me, for which I am most grateful.

Honourable senators, Senator Grimard and I share a passion for baseball. Together, we, along with Senator Murray and former senator Davey, have joined in many moments of cheering for the Blue Jays, and I know he is a tremendous fan of the Expos.

I spent a week of our spring break in Jupiter, Florida, at the spring training camp of the Montreal Expos, and I had the pleasure of spending the afternoon with our much-revered, early-Expos pitcher, Claude Raymond, who is now a broadcaster. I gave him my card. I do not think he was particularly impressed with my presence there, but he said, "I have a friend in the Senate, and I wonder if you have the good fortune to know him." Of course, he was speaking of Senator Grimard. I brought back his best regards.

(1430)

Certainly Senator Grimard has been a senator's senator. He is a gentleman who has made a strong and devoted contribution to this chamber, particularly as a representative of his province and his country.

I wish him and his lovely spouse many happy years together. Do not forget us.

Hon. Leonard J. Gustafson: Honourable senators, Senator Grimard, made an impression on me when I came to this place seven years ago. As some of you know, although I have never before raised it in the Senate, I come from the little town of Macon in a farming district of Saskatchewan. To illustrate what kind of Canadian Senator Grimard is, although he is a lawyer from Montreal, he has always been concerned about farmers. In fact, he once phoned me because he wanted to help the Canadian Wheat Board sell some wheat to a certain country. We made the presentation, but I am not sure whether the wheat was ever sold.

I tell you that story simply to illustrate that Senator Grimard is a Canadian, a Quebecer, and a lawyer who represents the camaraderie in this place that I have come to enjoy.

I extend best wishes to Senator Grimard and to his wife for a very happy retirement.

[Translation]

Hon. Serge Joyal: Honourable senators, I wish to join with my colleagues in paying tribute to the Honourable Senator Grimard as he leaves us today, and remind him that, when he first entered this house, he did so in a context of extremely partisan debate.

Today he is leaving, several years later, with the dignity of a man who has provided this institution with the essential qualities it must offer the Canadian public: courtesy, respect for differences of opinion, and the ability to express all the points of view that make up the Canadian mosaic. Senator Grimard, you have always behaved like a gentleman, one who knows how to listen to the opposing view. You have always had very strong political beliefs and you have expressed them in earlier writings. However, your opinions have never prevented you from wanting to understand the other person's view. When you leave this place, I hope you will not mind my reminding you that we have friendly ties with the members of your family and I hope that they will continue for a long while yet. All the best in your future endeavours, Senator Grimard.

[English]

Hon. J. Michael Forrestall: Honourable senators, as one of the remaining five from Senator Grimard's era, I wish to join in the fitting and warm tributes that have been extended to him and to his family.

I wish to reassure Senator Grimard about something from our past. When Senator Frith sat where Senator Lynch-Staunton now

sits, day in and day out during the GST debate, he hammered us unrelentingly, resorting from time to time to what I thought at the time were some pretty underhanded methods of attack.

He singled me out and suggested to the chamber that I was not qualified to sit here. I took some umbrage at that. He was basing that on the hope that I did not, in fact, own our family home. As we all know, in order to be qualified to sit here, certain property ownership is required.

Senator Frith went so far at one point as to suggest that, were he able to dislodge me, it would enable a legitimate argument to be put forward about the other seven senators who had been appointed. The act stipulated eight. Therefore, if I were gone, the other seven would have to go.

That disturbed Senator Grimard as well. I can understand why, because it upset me a little, too. I want to take this occasion to apologize to him. Truly, Senator Grimard, you had nothing to worry about. Had I bothered to reveal my limited wealth to other than the officer of this esteemed chamber, you would have known that I indeed owned the qualifying property. I believe that 12 acres on Halifax Harbour more than qualifies me for appointment to this place.

I wish to share one other thought. Although it comes to me second hand, I believe it to be absolutely true. Senator Grimard quite recently said to Brian Mulroney, "These have been the finest 10 years of my life."

Good luck to you and Dolly, and to your family. Enjoy that beautiful property in Florida. Good health to you all.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I did not wish to prepare notes, but that would have been wiser. Since first coming to the Senate, I have always tried to meet with new senators in order to get to know them better. Among the first I got to know was Senator Normand Grimard. A friendship, I think, sprang up immediately. Why? Because, for me, Senator Grimard was someone who was genuine. What does genuine mean? It means "Normand Grimard."

Without prejudice to all the other senators I have known, there was one a bit like him, and that was Senator Landry, from New Brunswick, who was another "genuine" senator. Genuine because of their spontaneous friendship and genuine by their manner. When we have known Senator Grimard, and his wife, Dolly — and had, in addition, the honour of being invited over — we can only be marked for a long time.

(1440)

We all know that Senator Grimard was always prepared to accommodate those who asked a favour of him. You cannot imagine the number of people on Parliament Hill, particularly in the Senate, who had legal problems at one time or another. It costs money to see a lawyer. These people would ask Senator Grimard if he would give them some legal advice.

I could see him on the Hill explaining with much emphasis, with his hands, the problems that confronted these people and the way to solve them. I can assure you that, at the end of the day, these people did not receive a lawyer's bill. A smile was all that was required.

This is the type of attitude that is lacking in the Senate. This warmth that we could develop for one another. I look at the two new senators and I tell myself that we should try to get to know each other. We all lead different lives, but we do not make much of an effort to get to know each other.

Senator Grimard, who is a man of remarkable integrity, readily agreed to be the secretary-treasurer of the Canada-Russia association, which is thriving thanks to him. Not a single expenditure has been authorized in the close to two years that the association has been in existence, and the funds are intact. He is the trustee of these funds, while I am just the humble president of the association, until a new one can be found to satisfy the majority. I thank him for having taken on the task. One of his friends will probably succeed him: perhaps Senator Buchanan will take over the responsibility of administering the association's funds. Senator Grimard was also very successful in ensuring the survival of the Canada-Cuba association. I created that association, but Senator Hébert was its first president. Guess who pulled off that coup? Senator Grimard. Senator Hébert was convinced that Senator Prud'homme would never accept him. I can still see this intelligent lawyer walk across the floor of the chamber and offer the position to Senator Hébert, who was looking at me while I was gesturing to tell him yes, this is really happening, we want you as our president. These are the roles that Senator Grimard enjoyed playing. He was also an extraordinary travelling companion. He is a man of great classical culture, something which, unfortunately, is becoming more and more rare. He has flawless legal insight, and he was totally dedicated to the parliamentary committees on which he sat. He was lucky not to be an independent senator like me.

[English]

That is the difference between Senator Grimard and some other senators. Some beg to be on committees but do not make their presence as known as they should. I will not name names, of course.

[Translation]

When he accepted responsibility, he acquitted himself of it with talent, dash and doggedness. I am not going to say I will miss him, because I plan to continue our friendship just as if he were still here. The parliamentary committees will miss him, as will his whip, for he was — and this is a risky thing for an independent Senator to say, but it is important in politics — totally loyal to his party and its ideas.

I respect loyalty in a person. Like everyone who has known him well, I want him and his wife and family to know that he will be missed. Even though he has plenty of friends in his own party, I want him to know that the door of Marcel Prud'homme

in the Senate is always open to him at any time when he comes to visit us here in Ottawa. Any little thing I can do for him in return for all that he has done for us, I would be more than pleased to do. I am going to merely say "au revoir," and I do not dare look at him to say it, because I know what an emotional fellow he is. This is a hard day for him. Senator Grimard, au revoir, with all our love. We must not be shy about saying it. Senator Grimard, and his wife are as dear to me as the Senate, even though sometimes the Senate does not reciprocate.

Senator Grimard, my very best wishes, and let me remind you that you are always welcome in the Senate. There will be so many people offering you their offices that I wonder if you will ever have the time to come to mine.

Hon. Normand Grimard: Honourable senators, first of all, it is my duty to express my most sincere thanks to the Right Honourable Brian Mulroney, who appointed me to the Senate in 1990. As others have already said, I was at that time running a legal firm in north-western Quebec, a region known as Abitibi-Témiscamingue and Rouyn-Noranda.

I was suggested by the premier of Quebec of the day, the Honourable Maurice Duplessis, and he even paid my way here, saying that my region was the future of Quebec because of its forestry and mining developments.

Prime Minister Mulroney crowned my legal career by calling me to the Senate. A few days after my appointment, on October 8, 1990 to be exact, I wrote to thank him. My letter ended as follows: "Dolly joins with me in expressing our deep appreciation of this honour. Please give our warmest regards to your wife." I do not remember the rest, but I signed it "Normand Grimard, now your senator."

Every time I ran across Mr. Mulroney, and we know he had a phenomenal memory, he would say "And how is 'my' senator today?" Well, Mr. Mulroney, your senator is fine, but sad at leaving the Senate of Canada, where you gave him the opportunity and the privilege of representing his fellow citizens of Quebec.

(1450)

Thank you for all you have done for me. At this point as well, I would like to tell my wife, Dolly, how much I admire her. She is the woman of strength in the Gospel, a woman with extraordinary intuition. There have been times I have not followed her advice and, to my great regret, I must say publicly that I have made mistakes.

Dolly is a woman with a hand of iron in a velvet glove. But, Dolly, my life will change starting tomorrow. As you know, during my years as a lawyer in Rouyn-Noranda and the entire region and here in the Senate, I was not at home a lot. I was not there for lunch, and many times not for dinner either. But, starting tomorrow... I do not need to go any further, everyone understands. I have a favour to ask, before everyone here: Could there be less iron in your hand and a lot more velvet in your glove?

In my ten years here, I have known three Speakers of the Senate. The first was the late Guy Charbonneau, a dear and close friend I had known for 20 years prior to my arrival here. Guy was a real pillar in my passage in the Senate, and I am greatly in his debt. Our birthdays were only a few days apart, and very often we celebrated together. My memories of Guy are only the best and in the warmest of terms.

I believe the Right Honourable Mr. Chrétien did well in appointing his two successors. First, the former governor general, who was Senator LeBlanc at the time, and then the current Speaker, Senator Molgat.

In 1993, there was some discord in the Senate between the various caucuses, but the two Speakers, and especially you, Senator Molgat, brought a return of peace, harmony and courtesy within the Senate. Today, with party lines respected, it is a pleasure to be in the Senate, and this is one reason I am doubly sad. I wonder if, had I left in 1993, it would have been so hard. Your Honour, you know we are close to you and your wife, Allison. In a number of circumstances, you have given me expressions of your friendship and please believe that I am truly grateful.

I should like to say a few words about my two leaders. First, Senator Lowell Murray, who was my leader when we were in power. I shall admit that it was during those years, from 1990 to 1993, that I was perhaps happiest in the Senate, and I think that it was during this period that I made my best contribution. The only thing you ever refused me, Senator Murray, was a shower in my office. However, you will recall that I got around you by paying the cost of its construction myself. That is perhaps the only disagreement we had, but I found a way to foil you.

There is also my present leader, with whom we experience the adversities of opposition, Senator John Lynch-Staunton, with whom I have spent some truly good times. I want to express my deep respect and friendship for him, as well as my admiration for the way he leads our caucus.

Now, honourable senators on both sides of the house, I leave without enemies, I believe, I leave with the satisfaction of a job accomplished, of having respected you all. You know, I am an only child, a solitary person, and I am very very unsociable. Perhaps around a table I feel more at ease but, as my wife knows, I am very unsociable. I may, therefore, inadvertently have put some of you off. If I have done so, please know that it was not deliberate and that I am sorry, but I do not think that I have been unfair to any of you.

I am leaving friends, and that is perhaps why I am sad. There are clerks I have known, Mr. Barnhart and especially his successor, Paul Bélisle. Here again, I have to say he is a friend of the family. How many times have he and his wife, Danièle, and Dolly and I got together, here in Ottawa, in Montreal, or even in Florida to socialize. Paul, thank you for your friendship. You realize, Paul, that there are those who are jealous. I see Mr. O'Brien at the Clerk's Table. Gary, you will remember how I started out in the Standing Committee on Privileges, Standing Rules and Orders with you, and you guided me well — we

amended the *Rules of the Senate* after all. I want you to know that I will have the fondest of memories of you as well.

I wish to thank my immediate employees: Mrs. Tremblay, Mr. Dion, and all the others as well, especially the drivers of the shuttle between the Victoria Building and the Centre Block.

(1500)

As you know, my office was located in the Victoria Building. I did some calculations and found that I made over 1,000 trips. Of course, I socialized more with these drivers, because I saw them often. I also want to thank the messengers, the pages, the security guards, the finance department, the human resources department and all the others.

No one mentions the parliamentary restaurant and its chef, Judson Simpson, its *maîtres d'hôtel* and its staff, who were good friends of mine. My menu is still well known. If you want to dine well, just go to the restaurant and say "I want to eat exactly the same menu that Senator Grimard had." You may want to add "And I also want the same wine," which, incidentally, is no longer on the list. The result of all this is that I must have gained some 20 pounds during those ten years. Over the next two or three years, I shall try to summon the courage to shed this extra weight by playing golf, which is my favourite sport.

[English]

My dear friends, what have I done here during those 10 years? First, I was a member for 10 years and joint chairman for three years of the famous Scrutiny of Regulations Committee. It is more like a punishment when a senator is assigned to that committee. I should be given a medal for my service to that committee!

Senator Nolin: Four more years!

Senator Grimard: I also worked hard in other committees, such as Privileges, Standing Rules and Orders.

In 1993, in collaboration with Senator Robertson and Senator Doyle, we amended at least 50 to 55 rules of the Senate. Our amendments were not too bad because, after seven years, they are still in force. However, there is a question about the 15-minute time limit for speeches. I like what Senator Mahovlich said two or three months ago: "Quantity does not mean quality." I agree with him.

Senator Mahovlich: Less is more!

Senator Grimard: If honourable senators decide to extend the period for speeches by another five or 10 minutes, the same situation will exist. However, honourable senators, you can do what you want because I am retiring at 11 o'clock, 59 minutes and 59 seconds tonight.

As Senator Beaudoin mentioned, I wrote a book. My book was entitled *L'indispensable Sénat: défense d'une institution mal aimée*. In that book, I defended the Senate, and I am happy to have done so.

I have also written many essays. I want to give you a few titles: in 1995, "The Family in Canada"; 1996, "Canada Amid the Turmoil of the Labour Market in the 1990s"; 1997, "Media Coverage of Elections and the Constitutional Debate"; 1998, "Professional Sports in Canada," and I think that was my best essay. I also wrote one in 1999 entitled "Canadian Identity, or the American Influence on Daily Life in Canada."

I wrote many articles in newspapers such as *The Gazette*, *Le Droit*, *Le Devoir*, *La Presse* and many article in the *Canadian Parliamentary Review*. The last article was written a couple of months ago. It was entitled "Bilingualism in the National Capital Region."

Honourable senators, bilingualism on the hill has been good for me. When I came to the Senate in 1990, I could not write a decent letter in English. I could not speak in English without having a text in front of me. First, I asked my assistant to give me only the English version of every text that I received. I read more than 85 books during those 10 years and at least 75 to 80 per cent were in English. Even my earphones in the Senate or in committee were always tuned to the floor language. As honourable senators know, 80 per cent of our business is conducted in English. That means that I was always listening to English when that language was being spoken.

I can now write good letters. My wife, who is perfectly bilingual, says my English is almost perfect. As you can see, I can speak without a text.

In January of this year, I was invited to Palm Beach to be a guest speaker at a meeting of a society called the Round Table. They have two meetings per month during the winter season. I spoke for 40 minutes and answered questions for 20 minutes with no text, just a few notes. This is why I say that bilingualism on the Hill has been good for me.

Honourable senators, it is now time for the grand finale.

[Translation]

Everyone asks me what I will do in my retirement. For the time being, I do not intend to continue to practise my profession. For the past 30 years, I played over 100 golf games per year, except two years ago, when I was sick. To use Dolly's expression, if God keeps me in good health and alive, I intend to continue practising my shots and try to play over 150 games, while reminiscing about the ten wonderful years I spent with you in the Senate of Canada. Canada: my country and my love.

[English]

The Hon. the Speaker: Honourable senators, I realize this is not quite in order, but might I be permitted to ask a question of the Honourable Senator Grimard?

Hon. Senators: Agreed.

[Translation]

The Hon. the Speaker: Honourable Senator Grimard, you said that if we want to dine well, we just have to go to the parliamentary restaurant and order Senator Grimard's menu. You added that if we want to drink well, we should order Senator Grimard's wine. Are we to conclude that Senator Grimard will foot the bill?

Senator Grimard: To ask the question is to answer it.

ROUTINE PROCEEDINGS

CANADA TRANSPORTATION ACT COMPETITION ACT COMPETITION TRIBUNAL ACT AIR CANADA PUBLIC PARTICIPATION ACT

REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, June 15, 2000

The Standing Senate Committee on Transport and Communications has the honour to present its

FIFTH REPORT

Your Committee, to which was referred Bill C-26, An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence has, in obedience to the Order of Reference of Tuesday, May 30, 2000, examined the said Bill and now reports the same without amendment, but with observations which are appended to this report.

Respectfully submitted,

LISE BACON
Chair

(For text of documents, see appendix to the Journals of the Senate, p. 722.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill placed on Orders of the Day for third reading at the next sitting of the Senate.

[English]

Thursday, June 15, 2000

**PROCEEDS OF CRIME
(MONEY LAUNDERING) BILL**

REPORT OF COMMITTEE

Hon. E. Leo Kolber, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 15, 2000

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SIXTH REPORT

Your Committee, to which was referred the Bill C-22, An Act to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence, has examined the said Bill in obedience to its Order of Reference dated Thursday, May 18, 2000, and now reports the same without amendment, but with a letter and observations, which are appended to this report.

Respectfully submitted,

E. LEO KOLBER
Chairman

(For text of documents, see today's Journals of the Senate, Appendix, p. 724.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

BUDGET IMPLEMENTATION BILL, 2000

REPORT OF COMMITTEE

Hon. Lowell Murray, Chairman of the Standing Senate Committee on National Finance, presented the following report:

The Standing Senate Committee on National Finance has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill C-32, An Act to implement certain provisions of the budget tabled in Parliament on February 28, 2000 had, in obedience to the Order of Reference of June 13, 2000, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill placed on Orders of the Day for third reading at the next sitting of the Senate.

[English]

WESTERN CANADA TELEPHONE COMPANY

FIRST READING

Hon. Dan Hays (Deputy Leader of the Government) presented Bill S-26, to repeal An Act to incorporate the Western Canada Telephone Company.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

CANADA TRANSPORTATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-34, to amend the Canada Transportation Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Wiebe, bill placed on the Orders of the Day for second reading on Monday next, June 19, 2000.

[Translation]

**PARLIAMENT OF CANADA ACT
MEMBERS OF PARLIAMENT RETIRING
ALLOWANCES ACT**

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-37, to amend the Parliament of Canada Act and the Members of Parliament Retiring Allowances Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[English]

HUMAN RIGHT TO PRIVACY BILL

FIRST READING

Hon. Sheila Finestone presented Bill S-27, to guarantee the human right to privacy.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Finestone, bill placed on the Orders of the Day for second reading two days hence.

PRIVILEGES, STANDING ORDERS AND RULES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING SITTING OF THE SENATE

Hon. Jack Austin: Honourable senators, I give notice that on Monday, June 19, 2000, I will move:

That the Standing Committee on Privileges, Standing Rules and Orders have power to sit from 6:00 p.m. on Tuesday, June 20, 2000, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

QUESTION PERIOD

TRANSPORT

CANCELLATION OF CANADIAN TRANSPORTATION AGENCY
HEARINGS ON PORT OF HALIFAX
LEASE DISPUTE WITH HALTERM LIMITED

Hon. J. Michael Forrestall: Honourable senators, I have one or two questions that arise out of a series of advertisements which most likely appeared in all of Canada's large daily national newspapers today. It has to do with Halterm. As the minister knows, the ads that are running ask serious questions of the present government.

(1520)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the honourable senator will know that, as a member of cabinet, I naturally support all of the decisions of government when they are made. The discussions that may have occurred up to the decision itself, of course, remain confidential within cabinet, and I am not at liberty to reveal either what my views were or what other views were. The decision was a government decision and, as a member of government, I support it.

Senator Forrestall: I wonder if the minister has seen the article in today's *Chronicle-Herald* that suggests quite strongly that, if the fees substantially increase to users at the Port of Halifax, then shipping lines like Maersk and Zim could leave. Their spokesman was quoted as saying:

But money speaks, and as things get more expensive in Halifax, somebody certainly has to go back and review Halifax and see whether it is worthwhile.

Has the minister received any correspondence from national or international shipping firms about the current situation? If so, could he give consideration to tabling that correspondence?

Senator Boudreau: Honourable senators, I hesitate in my response simply because I did have discussions directly with the major users of the port. As a matter of fact, I invited them to come to my office to talk about the port itself and about a number of the issues that the honourable senator raises. If there was correspondence, it was something very routine, such as confirming that they would come to see me on a certain date. I do not recall anything specifically.

However, we did meet, we had discussions, and they were quite firm in their view that the operation of a port such as Halifax is very price-sensitive, and that any significant increases in operating costs to them put the business of the port potentially at risk to some degree. I do not think they were indicating that that was the case as they spoke to me, but they did want to raise the concern. I had a good meeting with them. Certainly, it was an education for me. I am sure that the Halifax Port Authority and others who are involved with the management of the port are very aware of that matter.

Senator Forrestall: Honourable senators, the Port of Halifax generates 7,000 jobs, directly and indirectly. Every container equals three man-hours. Halterm alone, in business for some 30 years, unloaded 165,000 containers last year. If you do the simple arithmetic, you will see we are looking at a substantial number of man-hours, with the attendant economic impact.

What will the minister do to resolve this potentially disastrous dispute? Will the government give consideration to freezing port fees, now slated to increase by some 700 per cent, or face the consequences?

Senator Boudreau: Honourable senators, the Government of Canada will continue to take a strong interest in the commercial activity at the Port of Halifax. I know I certainly will, I do not get the impression from the people to whom I have spoken, nor from the meetings I have had with the major port users, that there is any immediate crisis. However, as the honourable senator points out, these ports are price-sensitive and it is something of which we must be conscious.

I hope that the issues that have now arisen between the Halifax Port Authority and Halterm, who have provided major employment to that area for a considerable number of years, can be resolved to everyone's satisfaction and that the development of the port will continue. The Port of Halifax has a bright future in front of it, and we will continue to be interested in its development and the challenges that face it.

Senator Forrestall: Honourable senators, Halterm has just finished purchasing two Post-Panamax cranes from China at a cost of some \$20 million. They did that with the full belief that the port authority itself would pick up the cost of rail upgrade, at about \$1 million, as well as the electrical and other upgrades required to support these new Post-Panamax cranes, another \$2.5 million, bringing the total to \$23.5 million. On top of those costs, a 700 per cent increase in rent could be fairly disastrous. I wish the government would give consideration to asking someone to arbitrate in this matter, to step in and bring some order to this chaos, because the potential loss to the Port of Halifax, the city of Halifax and the economy of Nova Scotia is significant.

Senator Boudreau: Honourable senators, I certainly appreciate the honourable senator's interest in this important subject. I do not treat his suggestion lightly. I will take that suggestion forward to the minister responsible and, hopefully, the parties as well. Resolution of this matter as quickly as possible will be in the best interests of all the port users and the people of the province. I give the honourable senator that undertaking and, hopefully, the matter can be resolved.

UNITED NATIONS

CANADA'S PARTICIPATION IN REMOVAL OF ANTIPERSONNEL MINES FROM KOSOVO

Hon. Douglas Roche: Honourable senators, I have a question for the Leader of the Government.

There has been some publicity alleging that Canada has been deficient in its duty to participate in getting antipersonnel mines out of Kosovo. Has the minister looked into this? Can he clarify whether there is any factual basis for these stories? Can he inform us whether the United Nations has actually made any formal statement in this respect, as distinct from certain officials perhaps giving viewpoints? Does the UN have a position or a statement with respect to Canada's participation in the de-mining of Kosovo?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not certain whether or not such a statement exists from the UN, but I can make those inquiries.

The honourable senator will know that Canada was one of the first nations to respond rapidly to the emergency need for mine clearing in Kosovo. I believe there has been some suggestion that those operations may have ground to a halt and are not to be continued, and I am happy to have this opportunity to indicate to the honourable senator that, on the information I have received from the minister and his department, there is no such halt. In fact, another de-mining project team will be fielded within a matter of a couple of weeks. They will be active within two weeks. Apparently, there was completion of one phase of the project, and then a period of evaluation, but that was not to indicate that we were abandoning the activity. That activity will resume in its next phase. I am advised, within a couple of weeks.

(1530)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 18, 2000, by Senator Forrestall regarding the replacement of Sea King helicopters, procurement process; a response to questions raised in the Senate on June 1 and 7, 2000, by Senator Stratton regarding the future of CFB Shilo; a response to a question raised in the Senate on June 1, 2000, by Senator Forrestall regarding the replacement of Sea King helicopters; a response to a question raised in the Senate on June 6, 2000, by Senator Bolduc regarding flow of specialized workers to the United States, incentives to remain in Canada; a response to questions raised in the Senate on June 14, 2000, by Senator Kinsella regarding the deportation of a citizen of China, execution for criminal acts upon return, request for information on hearing, and regarding deportation of citizenship applicants facing capital punishment.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— OPENNESS OF PROCUREMENT PROCESS

(Response to question raised by Hon. J. Michael Forrestall on May 18, 2000)

As the Minister of National Defence has stated several times, the Maritime Helicopter Project is his number one equipment priority and the aerospace industry is fully aware that the Government is developing an appropriate procurement strategy to replace the Sea Kings.

The Government will ensure that the new helicopter meets the Canadian Forces' operational requirements. A Statement of Requirements is the basis of any major equipment project, and the Maritime Helicopter Project is no different. However, a number of issues must be carefully examined and other Government departments have to be consulted to ensure that the procurement strategy will lead to the right equipment and the best value for Canadians. The Government will make an announcement when all the issues have been addressed.

FUTURE OF CFB SHILO

(Response to questions raised by Hon. Terry Stratton on June 1 and 7, 2000)

Following the announcement of Germany's intention to cease training at CFB Shilo at the end of 2000, the Department undertook the development of a business-case analysis for the future of Land Forces in Manitoba. The business-case analysis provided a comparison of various options based on four key factors: operational effectiveness, cost, impact on Quality of Life of both civilian and military workforce and their families, and regional economic impact. The first phase of the analysis was released in mid-April.

Between mid-April to mid-May, departmental officials consulted with various stakeholders and refined the information on facilities and infrastructures found in the business-case analysis.

Based on these refinements, departmental officials are now finalizing the presentation of options for the Minister's consideration.

REPLACEMENT OF SEA KING HELICOPTERS

(Response to question raised by Hon. J. Michael Forrestall on June 1, 2000)

The Government will ensure that the new maritime helicopter meets the Canadian Forces' operational requirements. A Statement of Requirements is the basis of

any major equipment project, and the Maritime Helicopter Project is no different. However, a number of issues must be carefully examined and other Government departments have to be consulted to ensure that the procurement strategy will lead to the right equipment and the best value for Canadians.

CITIZENSHIP AND IMMIGRATION

FLOW OF SPECIALIZED WORKERS TO THE UNITED STATES—INCENTIVES TO REMAIN IN CANADA

(Response to question raised by Hon. Roch Bolduc on June 6, 2000)

Though no measure for fiscal expenditure-type incentive packages, provided to immigrants to entice them to come or to stay in Canada, exists, CIC has numerous programs to encourage qualified workers to come and stay in Canada, such as :

1) Facilitated Processing for Information Technology Workers

In response to the need of employers to fill critical shortages in the software industry, Citizenship and Immigration Canada (CIC) collaborated with Human Resources Development Canada (HRDC), Industry Canada and the Software Human Resource Council (SHRC) on the development of a pilot project to streamline the entry of those workers whose skills are in high demand in the software industry and whose entry into the Canadian labour market would have no negative impact on Canadian job seekers and workers. Under the pilot project, the job-specific validation was replaced by a national validation letter, which states, among other things, that certain software positions cannot be filled by Canadian citizens or permanent residents. The national validation letter removed the delay associated with the job-specific validation process. The seven specific job descriptions can be found on the CIC Internet Site.

2) Spousal Pilot

A national pilot project for the spouses of temporary foreign workers was launched on October 15, 1998. Under this pilot project, the spouses of workers coming to Canada for jobs in certain high skill occupations in key high growth sectors of the economy are able to obtain employment authorizations without having their job offer subjected to any labour market testing by HRDC.

The pilot is open to the spouses of foreign workers in the two highly skilled occupational categories described in the National Occupational Classification System and who hold employment authorizations valid for at least six months.

3) Reduction in processing delays.

With additional permanent funds allocated for the Department, the International Region was able to deploy an addition 3.6 persons dedicated to immigrant processing in the summer of 1999 and an additional 19 new positions will be deployed this summer (2000).

We are also continuing to work to streamline decision-making which will speed up processing.

With regard to the question concerning employment authorizations for Americans coming to Canada and Canadians going to the U.S., we can provide the following information.

Canadian employment authorizations signed from 1997 to June 12, 2000 to persons from the United States in 'skilled' occupations are as follows:

1997:	22, 776
1998:	29, 331
1999:	29, 462
2000:	13, 080

It is not part of CIC's mandate to monitor Canadians seeking employment in the United States; this information would best be obtained from American officials.

DEPORTATION OF CITIZEN OF CHINA—EXECUTION FOR CRIMINAL ACTS UPON RETURN—REQUEST FOR INFORMATION ON HEARINGS—DEPORTATION OF CITIZENSHIP APPLICANTS FACING CAPITAL PUNISHMENT—GOVERNMENT POLICY

(Response to questions raised by Hon. Noël A. Kinsella on June 14, 2000)

The Chinese national in question received full due process, including a risk review based on all information available at the time.

To date, the sentence has not been carried out, and in fact has been appealed.

The Government of Canada and the Minister of Citizenship and Immigration are concerned about this matter, and accordingly, we have expressed Canada's concerns to the Chinese government.

Canada's refugee determination system is recognized as one of the fairest systems in the world. However, Canada will not, as a general policy, refuse to deport persons to countries that have capital punishment. Canada will not become a safe haven for serious criminals, terrorists, violators of human rights and war criminals.

Privacy legislation does not authorize Citizenship and Immigration Canada nor the Immigration and Refugee Board, an arm's length independent agency of the federal

government, to release the contents of individuals' files without their consent.

[Translation]

ORDERS OF THE DAY

NATIONAL DEFENCE ACT

MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the house that a message had been received from the House of Commons returning Bill S-18, to amend the National Defence Act (non-deployment of persons under the age of eighteen years to theatres of hostilities), and acquainting the Senate that they had passed the bill without amendment.

[English]

CANADA LABOUR CODE

BILL TO AMEND—SECOND READING

Hon. John C. Bryden moved the second reading of Bill C-12, to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts.

He said: Honourable senators, today we begin the second reading of Bill C-12, an act to amend Part II of the Canada Labour Code and, as such, confirm that the Government of Canada is committed to safety in the workplace and to ensuring that Canadians live in healthy and safe communities.

This legislation also demonstrates our trust in the ability of federal employers and employees to recognize and solve their own health and safety problems together. This bill makes important amendments to Part II of the Canada Labour Code and is good social and economic policy because a safe workplace, combined with sound labour management relations and employee involvement in decision-making, makes good sense.

Approximately 10 per cent of the Canadian workforce is governed by the Canada Labour Code, and Part II of the code sets out a legislative framework governing occupational health and safety issues for employees who are within the federal jurisdiction.

Employees and employers covered under this legislation include the federal public service and certain Crown corporations such as Canada Post. Industries in the private sector include uranium mining and grain handling, as well as industries which are international or interprovincial in scope, such as road, rail, and air transportation; shipping; pipelines; long shoring; telecommunications and banking.

Part II of the code establishes three basic employee rights regarding health and safety in the workplace and defines the duties of both employers and employees. They are the right to know about hazards in the workplace and ways of dealing with them, the right to participate in health and safety matters, and the right to refuse dangerous work.

The legislation also sets out the processes and procedures to be followed in exercising those basic rights. For example, the role of health and safety committees is described, along with the procedures to expeditiously determine whether a danger exists when a refusal to work arises.

The amendments before you were formulated to ensure that Part II continues to protect workers, to align federal legislation with the occupational health and safety legislation in other jurisdictions, and to modernize Part II's approach to occupational health and safety regulations.

Honourable senators, there are five main elements to the bill. The first permits parties to identify and solve problems on their own. Local health and safety committees will be mandated to conduct regular workplace inspections and the committee will be given increased powers in dealing with complaints.

Second, a management and an employee member of the committee will have the power to investigate any unresolved complaints. If a violation of the code is found, they will ask the employer to give a written undertaking to resolve the complaint. If an immediate danger is found, they will terminate the activity. Only if they cannot agree on a solution will a government health and safety officer be asked to intervene.

Third, the bill calls for the creation of a health and safety policy committee at the corporate level. Such a committee will be required for enterprises with 300 or more employees. This committee will address a range of issues, such as injury and prevention initiatives. Approximately 85 per cent of the federally regulated workforce will be covered by this aspect of the bill.

Fourth, the bill provides additional protection for pregnant and nursing employees. If a woman has reason to believe that an activity or condition such as exposure to a chemical will adversely affect her or her foetus, or her child if she is breastfeeding, she will be able to withdraw from that work until she has an opportunity to consult her doctor. At present, the employee has to continue working until she obtains a medical certificate.

Fifth, there is the ability to make regulations to which every employer, in consultation with the health and safety committee at both the workplace and the corporate levels, will be required to develop, establish, and monitor a prevention program. The size of the workplace and the nature of the hazards will be key considerations in the design of the prevention program.

As you can see, honourable senators, these changes represent the Government of Canada's commitment to occupational health and safety and its confidence in the willingness and ability of labour and management to solve their problems together. This

bill addresses not only the human side of the equation but also the economic side.

Each year, approximately 36 workers in the federal jurisdiction die on the job, and another 60,000 suffer occupational injuries and illnesses. That is one million lost work days annually, costing over \$350 million in lost wages, medical aid, rehabilitation, and disability pension payments.

Honourable senators, in Canada, more days of work are lost each year because of injuries than are lost to strikes and lockouts. These statistics paint a sober picture, but one that can be brightened if all of us — governments, employers, unions, workers, and safety and health professionals — work together to solve the problem. That is why I hope that all senators will join me in supporting Bill C-12.

If nothing has changed since yesterday, it will be possible, with the cooperation of the other side, to expedite the movement of this bill to committee. That is a credit to us because there was a bit of a hold up on it at the beginning. If we can get it to committee for detailed study, that would be much appreciated by the people who worked so hard to get it this far and those who will be affected by the legislation.

Hon. Mabel M. DeWare: Honourable senators, I am pleased to have the opportunity to speak on behalf of my colleagues on this side of the chamber at the second reading of Bill C-12 which amends Part II of the Canada Labour Code.

First, I should like to point out that we support the general intent, aims, and principles of this bill, which require employers and employees to work together to ensure a healthy and safe working environment. In keeping with this purpose, the bill sets forth a series of new rights, responsibilities, and duties, including the right of employees to refuse to perform dangerous work, and provides mechanisms that will enable problems to be resolved locally.

Part II of the Canada Labour Code, which governs occupational health and safety standards in workplaces under federal jurisdiction, has not been substantially amended since 1985. In the 15 years since then, there have been many changes affecting the workplace. It is clear that the law must be brought up to date. An overhaul of Part II is long overdue.

We are also very supportive of the fact that Bill C-12 was the product of extensive and lengthy consultations among the federal government, federally regulated employers, and labour. We respect the consultation process which resulted in this legislation and we are impressed by the spirit of compromise and mutual interest which defined the discussions and negotiations. Bill C-12 represents a concerted effort to modernize federal health and safety legislation.

(1540)

That being said, however, we did have a number of concerns with the bill as introduced in the other place. We still have several issues with the bill in its current form, and we hope that these will be considered carefully both in the chamber and by the Senate committee.

Concerns were raised in the other place that some provisions of Bill C-12 did not faithfully reflect items which were agreed upon by all parties in the tripartite consultations. Most witnesses who testified before the Commons committee seemed willing to give the bill's drafters the benefit of the doubt. However, such apparent oversights could undermine the generally accepted view that the government undertook this exercise in good faith.

In any event, the witnesses indicated that they wanted the bill to become law as quickly as possible. Employer groups and employee associations fear that any delays could result in the legislation not going anywhere for a very long time. An election could be called, and Bill C-12 would die on the Order Paper. They would have to kick-start the process all over again, and they are certainly not prepared to wait another three years for action.

As honourable senators will recall, the government introduced a bill amending Part II of the Canadian Labour Code back in April, 1997. It, too, was based on tripartite consultations that had taken place in the preceding years. Unfortunately, however, the legislation died on the Order Paper soon after its introduction when the 1997 federal election was called.

It is interesting to note that the substance of the then Bill C-97 was virtually the same as the legislation that is now before us. A comparative reading of the two bills reveals that there are some refinements in Bill C-12, to be sure, as well as many relatively minor word changes. However, the key provisions of the current bill which our colleague Senator Bryden has outlined for us, and for which there is broad support, were already part and parcel of Bill C-97. This is further reflected in the fact that the summaries of both bills are identical in every respect.

However, it took the government over two years before it got around to bringing back what is essentially the same piece of legislation. Bill C-12 has sat on the Order Paper for almost eight months since it was finally introduced in the other place on October 28 of last year. We are somehow expected to agree that the government's delays in amending occupational health and safety standards should now constitute an emergency on the part of the Senate.

Those of us on this side of the chamber are questioning why the government is, all of a sudden, in a hurry to have Bill C-12 become law — such an hurry, in fact, that after we gave first reading to an incorrect version sent to us by the other place, the government was willing to disregard established rules of the Senate in order to expedite consideration of the correct one. We were told that suspending the application of those rules was justifiable on the grounds that passage of Bill C-12 is a matter of great urgency. One might be tempted to speculate that another election is imminent.

The points that I just raised are ancillary to the task to which this chamber must now apply itself, which is to study the bill on its merits. However, I felt it was important that they be noted in the public record. I will now turn my attention for a moment to the substance of Bill C-12.

Honourable senators, in pointing out some of the areas of concern with the legislation, I should first like to review the amendments that were made to the bill in the other place. While some of those amendments address problems that we identified in the bill, they did not respond to all of the concerns. I should also like to take this opportunity to commend the Commons committee for taking its responsibility seriously and not simply rubber-stamping the government's legislative proposals in this instance.

The government, however, may have felt that the committee took its job too seriously, which probably explains why it took the rather unusual step of promptly seeking to reverse one of the amendments made by the committee.

That amendment involved the definition of "danger" proposed in the bill. That definition was the object of some debate in the other place, and deep-seated concerns were raised by witnesses who testified before the Commons committee. As a result, Bill C-12 was amended in committee to extend explicit protection against workplace dangers to pregnant women, their unborn babies and to nursing mothers. However, as soon as the bill was reported, the government moved to undo this amendment, with the eventual support of a majority of members in the other place, although, as honourable senators will recall, this was not reflected in the version of the bill that was originally sent to this chamber.

We must take the government at its word that it is anxious to protect the health and safety of pregnant and nursing employees, and, indeed, other parts of this bill do contain certain special considerations for them. However, given the reversal of a committee amendment that had wide support, we feel that this matter could benefit from further study by the committee. In addition, concerns were raised about the adequacy of those special considerations.

The bill's definition of "health" was problematic for a number of witnesses, mainly because it specifically excluded the effects of workplace stress and work-related factors and the psychological well-being of federally regulated employees of the public service. The committee in the other place amended the bill by removing the definition of "health" entirely. However, the testimony indicates that there was some support for retaining it in an amended form, and this might warrant further exploration.

Another amendment resulted in the deletion of an item that would have required employees to take medical examinations and tests. It was removed in response to a concern raised primarily by employee associations, but also supported by witnesses from employer groups. The reason given was that such tests should not be mandatory, as mandatory tests are illegal under the federal human rights law. However, there were also calls for the deletion of another provision that authorizes the minister to undertake medical surveillance and examination programs with respect to occupational health and safety. We look forward with interest to further study on this matter as well.

Finally, the other place made an amendment regarding disciplinary action. This amendment addressed a concern raised by several witnesses, among them the Canadian Labour Congress and federally regulated employers. They noted that this was a misinterpretation of an item on which consensus had been obtained in the tripartite consultations, and they recommended that it be changed to reflect the original wording of the agreement. The committee reworded it as recommended, so it is our hope that that concern, at least, has been adequately addressed.

I should now like to discuss a few issues that were not the object of amendments in the other place. Concerns were repeatedly raised about the procedure that Bill C-12 establishes for appeals of decisions made by health and safety officers. Many witnesses expressed dissatisfaction with the one-stage system set forth in the bill, which provides that a decision made by the appeals officer is final and cannot be reviewed. They called for a two-tier appeal system, with the second tier being the Canada Industrial Relations Board, in order to ensure due process. The Public Service Alliance of Canada noted that employers and workers had originally agreed that there should be a two-tier appeal system for any case, including discipline cases and appeals of the directives of health and safety officers. We hope that the Senate committee will revisit this aspect of the bill.

There was concern as well about the adequacy of Bill C-12 to deal with workplace violence. Witnesses told the committee in the other place that a consensus had been reached in the tripartite consultations to include a regulation on a workplace violence prevention program. However, the bill does not explicitly state the requirements for the development of such a program.

Another area where questions remain is Bill C-12's introduction of the concept of ergonomics to occupational health and safety standards. It requires employers to ensure that machinery, equipment and tools meet ergonomic standards. However, those standards are not defined in the bill, and there is no indication that regulations or guidelines are forthcoming, so this provision could end up being toothless.

Ergonomics involves fitting the job to the physical limitations of the workers in order to prevent work-related, musculo-skeletal disorders such as back injuries and carpal tunnel syndrome. These can be caused by repetitive motions, force, awkward postures or overexertion of certain muscles. They are common and preventable, not to mention very expensive in terms of time and cost. Although ergonomics is a relatively new concept, models for the effective implementation of related standards do exist. For example, in November, 1999, the United States Labour Department unveiled a wide-ranging proposal in this area. The mention of ergonomics in Bill C-12, however, is so vague as to be virtually meaningless. We therefore question how effective this new provision will be.

The Public Service Alliance, among others, pointed out that workers on Parliament Hill are not subject to Part II of the Canadian Labour Code and are thus left unprotected by health and safety law. Witnesses noted that Part III of the 1986 Parliamentary Employment and Staff Relations Act contains provisions that would extend to employees of the Senate, House of Commons, Library of Parliament and workers for members of Parliament the same occupational health and safety rights and conditions as other workers in the federal jurisdiction. However, only Part I of the act has thus far been proclaimed. Witnesses called for Part III of the act to be proclaimed into force and for related amendments to be made to Part II of the Canadian Labour Code.

(1550)

Another concern involved the fact that with Bill C-12, which also makes technical amendments to Part I of the Canada Labour Code, the government missed a golden opportunity to correct the many instances of gender-specific language still contained in that part. This matter was raised most forcibly by our colleague Senator Kinsella during the Senate's review of Bill C-19 in the last Parliament. I expect he will also speak more fully to this important issue.

Honourable senators, it looks like this is a pretty long list of concerns, but, then again, Bill C-12 is a very substantial bill. I wish to make it clear that none of these concerns impact on the overall thrust of this important legislation or detract from our support of the bill as a whole. However, we in this chamber have a duty to thoroughly study all concerns that have been brought to our attention, and I hope that these issues will be given the consideration they deserve when Bill C-12 goes to committee.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to add a few comments. Following on the speech of the mover, Senator Bryden, and that of Senator DeWare, I am quite cognizant of the fact that in Senator Bryden we have one of the leading labour lawyers in our country, who has forgotten more about labour law than I would ever learn in my lifetime; and in Senator DeWare, we have a former minister of Labour. We are quite fortunate in this chamber to have this expertise addressing this particular bill.

The other day, honourable senators, when we had the technical, procedural difficulty around the manner in which this bill arrived from the other place, some of you may recall that I rose and asked whether we would be able to examine the second parchment. I did go and examine the second parchment, as did some of my colleagues in this place. I simply wish to put on the record something that I found to be rather extraordinary about the parchment. As honourable senators know, we received a message from the House of Commons and the parchment signed by the Clerk of the House of Commons attesting that Bill C-12 was adopted by the House of Commons and that the House was now seeking the concurrence of the Senate. It was dated — listen to this — May 31.

As honourable senators recall, a few days later, we gave first reading to what we thought was the bill. It is not until around June 3 or June 5 when we apprehended that there was a problem with the bill. We then received this second message that contains a bill with the word "Reprint" on the front page. The parchment, however, against which the reprinted bill is attached, signed by the Clerk of the House of Commons, is dated not June 6 or June 7 when it happened, but, believe it or not, backdated to May 31. All of us know that if we were dealing with a civil instrument and we had backdated it, we may be on dangerous ground.

I simply place those comments on the record and will not proceed further. Senator Hays and I have consulted with His Honour about this poor piece of business. Hopefully, it will be resolved through the usual channels.

Let me turn now, honourable senators, to the matter alluded to by Senator DeWare, which I wish to underscore vis-à-vis the labour bill.

As Senator DeWare indicated, when we last had a labour bill here that opened up the Canada Labour Code, it was studied by our Social Affairs Committee. On June 18, 1998, the Standing Senate Committee on Social Affairs, Science and Technology presented its eleventh report. In that report, our committee spoke to the issue of the problem we had apprehended of the gender-specific language that is all throughout the Canada Labour Code. In its report to this chamber, the committee said:

Your Committee was pleased with the statement made to it by the Minister of Labour on the issue of gender neutrality. Clearly, the Minister supports the view of committee members on the absolute need for gender neutrality in legislation, and we encourage the Minister to give immediate and constant attention to this matter.

The Minister of Labour himself appeared before the committee. I draw your attention to Issue No. 16 of the evidence before the Social Affairs Committee on June 17, 1998. We drew the minister's attention to the Canada Labour Code being replete with gender-specific language. Since the labour code is an instrument of education for workers across Canada, as well as being the standard of fair employment practices, it has an educational function. Although all our laws should be gender neutral, this law in particular, because of its educational import, should be non-sexist in its language.

I will now quote from the Minister of Labour, who said:

Senator Kinsella has raised an interesting point concerning the language of the bill, suggesting that its wording is not gender-neutral. He has a point if he means to say that parts of the Canada Labour Code not being amended contain gender-specific terms, but such is not the case with Bill C-19. Non-sexist language has been used in the bill....

The minister accepts that there was sexist language throughout the labour code.

He continues:

I understand that the policy of the Justice Department is that all bills amending current legislation or establishing new laws must be gender-neutral, but it is not their policy to draft specific stand-alone legislation whose sole purpose is to remove gender-specific terms.

This is the critical part. This is the commitment that was given by the Minister of Labour to our committee.

The minister continued:

I want to pursue this matter and am actively exploring with my colleagues ways to accommodate these concerns without reopening discussions on the substance of Part I of the code. I expect to introduce amendments to Part II of the code later this year, which could present an opportunity to address this issue....

Senator Kinsella: I want to thank the minister for his recognition of the problem of gender-neutrality in the language in which we draft legislation.

The minister then said that when the code is opened up again for amendment, he would undertake to ensure that the gender-specific language of the Canada Labour Code would be amended.

Honourable senators, we are at that point now. We had the commitment of the government to amend the code. When this bill goes to committee — and I believe it will go to the Social Affairs Committee, which has a corporate memory of this matter as it was the committee that looked at the bill before — we have all the amendments prepared to make those technical changes to the Canada Labour Code. The work has been concluded and the Senate could make a real contribution if our committee would attend to the amendments that we will bring to the committee to do the job that needs to be done.

(1600)

With that, honourable senators, I conclude my remarks on second reading.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Bryden, seconded by Honourable Senator Chalifoux, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

**CAPE BRETON DEVELOPMENT CORPORATION
DIVESTITURE AUTHORIZATION
AND DISSOLUTION BILL**

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Boudreau, P.C., seconded by the Honourable Senator Graham, P.C., for the second reading of Bill C-11, to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts.

Hon. Lowell Murray: Honourable senators, I have always said that I do not really need a huge audience. I am quite satisfied so long as there is one shorthand stenographer left so that I can get on the record. Nevertheless, I do appreciate the courtesy of the sponsor of the bill, the Honourable Leader of the Government, for remaining in the chamber for this debate and I also thank his predecessor, Senator Graham. That courtesy is not always granted by ministers in the House of Commons, where ministers often feel that parliamentary debate is a matter fit only for parliamentary secretaries and backbenchers. They race out of the House of Commons when they have made their initial speeches on their own legislation. However, I do appreciate the courtesy and I will not keep honourable senators very long.

I am, as senators know, an Ontario senator with roots in Cape Breton and considerable concern for the people there and, I believe, some familiarity with the situation there. It appears that we have begun to write the final chapter in the 33-year history of Cape Breton Development Corporation. My purpose in rising at this time is to make a plea. It is a plea to honourable senators, from whatever part of Canada they may come, to the Senate and to the Parliament of Canada that we reaffirm, indeed, that we insist on our authority, our commitment and our responsibility as the Parliament of Canada for the Cape Breton Development Corporation and for the economic and social fate of Cape Breton and Cape Bretoners and that we not hand it off and abandon it as this bill would have us do.

The purpose of this bill is to hand off to the federal cabinet and to the board of directors of Devco, which is the creature and the agent of the cabinet, complete authority to divest the assets of Cape Breton Development Corporation and to dissolve the corporation as they see fit. I believe that is an abdication of a responsibility which a previous Parliament accepted 33 years ago.

As honourable senators know, the people of Canada, through Parliament and the government, have a sizeable financial investment in Devco. I speak here not just of the annual subsidies that have gone to support the corporation for the past three decades. I speak also of certain assets with which we are familiar. There is the Prince coal mine, which, as Senator Buchanan reminded us the other day, has perhaps 10 or 15 years of useful life left. There is also the undeveloped Donkin coal mine into which the federal government put \$80 million some years back before they sealed the tunnels. Surely the terms and conditions of the disposition of these assets ought to require the approval of Parliament. Otherwise, what becomes of ministerial accountability? What is Parliament for?

However, in addition to the considerable financial commitment and involvement of the people of Canada in Cape Breton, there is an unprecedented — and I know how overworked is the word “unprecedented” — political commitment to Cape Breton and to the people of Cape Breton. There is an economic and social involvement, a commitment to the people there, which was taken on by Parliament when Lester Pearson was the Prime Minister. Allan J. MacEachen was Nova Scotia's man in the federal cabinet. Jean-Luc Pepin was the federal Minister of Mines, and Robert Stanfield was the Premier of Nova Scotia. Together, these people and their governments agreed on a new approach, quite a noble approach, if you like, to the economic and social problems of the coal mining towns.

Call it an experiment, if you like. Call it a 33-year experiment. Call it an experiment that perhaps has not worked out as well as everyone would have liked, although it is altogether too easy to disparage, as the central Canadian media is so fond of doing, the very real contribution that this federal Crown corporation has made over the decades to the economic and social life of Cape Breton and of its people.

Some may say that it was too costly, but if they that, they should be prepared to answer a fair question, and the fair question is: Too costly compared to what? To Mirabel? To the scientific tax credit, a few years back, where almost \$1 billion dollars was blown overnight?

Where I live now, Atomic Energy of Canada Limited is an important presence in the Upper Ottawa Valley. I asked a question the other day about its possible privatization. The Leader of the Government was not able to confirm that there are plans to privatize it, but privatization seems to be under consideration.

I have no comment to make about AECL at this time, but I simply want to remind senators that over the 30 years of the existence of Devco, the annual subsidy to AECL from the federal Parliament in the late 1960s and into the mid-1970s started in the range of \$50 million to \$60 million. For the past 20 years at least, it has been between \$100 million and \$200 million per year. The subsidies that have gone to the Cape Breton Development Corporation over that period have been quite small in comparison. I make that point and leave it for the consideration of honourable senators.

Another point that we should not forget is that the federal treasury was subsidizing the Cape Breton coal mines well before Devco was created. It was subsidizing the Cape Breton coal mines when those coal mines were under private ownership. I think honourable senators will find that, allowing for inflation and so on, the federal subsidies that went to the private owners in those days were no less than the annual subsidies that have been going in recent years from the federal Parliament to that Crown corporation.

Since 1967, I think that successive federal parliaments and governments have been true to the spirit and the letter of the Devco legislation. They have dealt honourably and, yes, I will say, generously with the people of Cape Breton. If the time has come, as it apparently has in the view of the government, for the federal government "to exit" the coal-mining business in Cape Breton — that is the phrase in the explanation that goes with the bill — surely we will not allow it to happen simply by a remit to the federal cabinet and to the directors of Devco. Surely, Parliament should reserve to itself the right to pronounce on what is done here.

(1610)

Last summer, the Supreme Court of Canada used the concept "honour of the Crown" in its judgment in the *Marshall* fisheries case. They were talking about the honour of the Crown engaged, as it is, in the treaties that our political ancestors signed with the aboriginal peoples. I believe that the honour of the Crown is engaged in Cape Breton and in those communities as a result of what Parliament did 33 years ago. I do not think that the honour of the Crown can be maintained, upheld or preserved if Parliament walks away and simply hands over authority to the Governor in Council to do with these assets and with this Crown corporation as it pleases.

Honourable senators, the policy is to reprivatize the coal fields in Cape Breton. Some of the advocates of this bill speak as if private ownership of the coalfields of Cape Breton was something new. As we know, coal has been mined in Cape Breton since 1685, under the regime of Louis XXIV. The first commercial operations were instituted in 1720. For a good part of the first half of the 20th century, the Dominion Steel and Coal Corporation turned a nice dollar and made a profit on operating the coal mines of Cape Breton. The corporation received subsidies from the federal government in later years to help it do so. When Dominion Steel ceased to make a profit, it walked away without a thought for the economic and social consequences in those communities.

In addition, an environmental legacy was left behind that those of us who know the area are aware is one of the worst in Canada. This legacy amounts to 100 abandoned pits that are now in the hands of the federal Crown to clean up. I think we can confidently predict that before that mess is cleaned up, the cost to the Canadian taxpayer will be one-quarter of a billion dollars. I have seen the analysis done by the federal Department of Natural

Resources, and I have seen the analysis done by the John T. Boyd Company. It is an understatement to say that there are 100 abandoned pits and it will cost \$167 million, or whatever. I think we can confidently expect it will cost one-quarter of a billion dollars to clean it up by the time we are finished.

Honourable senators, is it any wonder that Cape Bretoners are fearful? Is it any wonder that they want to see the not-so-fine print? They want to know the terms and conditions of the disposition of this company. Do they not have a right to expect that their Parliament, which took on this obligation 33 years ago, will at least see it through to the end and that we will reserve to ourselves the final approval of what is done?

I say with great respect, honourable senators, that the present government must redeem itself with regard to Devco and that they have not always been completely up front, either with Parliament or with Cape Bretoners, about their plans. I do know, as we all know, that it has been part of the agenda of the federal Department of Finance — and it did not start with this government, not at all — to have the federal government "exit" the Cape Breton coal mines. Governments come and governments go, but the Department of Finance goes on — a culture unto itself and, it appears, a law unto itself.

Part of the strategy on the part of the government and of Devco had been to pretend that there was a future for the Phalen coal mine and to pretend that there was a future for the Phalen coal mine in the face of all kinds of evidence to the contrary. Three times a special Senate committee heard evidence to the effect that with all the geological and other problems at the Phalen coal mine, its future was a dubious proposition. Three times a Senate committee recommended that there be an assessment of the future of the existing mines — in June of 1996, in April of 1997 and in December of 1997. Three times we asked for a study, not to open the Donkin mine, but to do a study of the economic feasibility of Donkin. Three times we were stonewalled — no pun intended — by ministers and bureaucrats in Ottawa, and by their compliant surrogates in Cape Breton.

Honourable senators, the government had to pretend that there was a future for the Phalen coal mine because once they admitted the contrary, the subject of a possible new mine at Donkin came up. I will not go into the history of the 1997 election campaign, but that is the last thing the Department of Finance or the government wanted to hear. They put it off until such time as it became perfectly obvious that Phalen was finished after the government had already announced they would close the shop and privatize the corporation anyway.

The Senate will understand why Cape Breton needs reassurance. The Senate will understand, I hope, why Parliament should decide not just whether the Devco assets will be divested, but how and under what conditions.

The Leader of the Government in the Senate spoke on June 13 in opening debate on this bill.

The Hon. the Speaker: Honourable Senator Murray, your speaking time has expired. Are you requesting leave to continue?

Senator Murray: Yes, for a very few minutes, honourable senators. I am coming to the end of my remarks.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Murray: Honourable senators, the Leader of the Government insisted that this bill does not mean that coal mining will cease in Cape Breton. He said:

It will have a future, and approximately 500 people will have employment in a new and reinvigorated coal industry.

That is really the issue here. How does the minister know? How can he be sure? What assurances does the honourable leader have? What assurances can he or the government give to Parliament and to the people of Cape Breton in this respect? Who is in the loop in these negotiations? I believe it began with the 60 companies that were asked to take an interest in this matter. They whittled it down over the months. Negotiations are going forward with one company. Who was in the loop? There is Nesbitt Burns, of course, agents of the government; federal ministers and officials, one assumes; the board of Devco, one assumes; and Nova Scotia Power. One of the vice-presidents of Nova Scotia Power testified at the House of Commons committee and indicated that Nova Scotia Power had discussions with a putative purchaser. I suppose that is understandable given that an important part of all this is the Nova Scotia Power contract, but he took refuge in confidentiality when pressed for details.

When Mr. Shannon, the Chairman of the Board of Devco, was asked what was the major asset of Devco, he said it was the Prince mine. Some people — I think Senator Buchanan is among them — think that the major asset may well be the Nova Scotia Power contract, which still has 18 years to run. Senators will understand the concern on the street, which was alluded to by Senator Buchanan, that a United States company, which is perhaps not greatly in the business of coal mining but is a coal broker, will buy the assets at a fire-sale price and then proceed to import coal from Colombia, the United States or wherever to supply Nova Scotia Power. There go the 500 jobs to which Senator Boudreau referred.

Honourable senators, timing is everything, and the convergence of time supports my position that Parliament should take a look at and have the final say on what is being done.

(1620)

When Mr. Goodale spoke at third reading on June 6 in the House of Commons, he said that Devco is now at the stage of evaluating and clarifying one of the proposals with a view to finalizing the broad terms and conditions of a potential sales agreement, perhaps as early as later this month.

That was June 6, today is June 15. Our friend, Senator Boudreau, the Leader of the Government in the Senate, on June 13, said:

The privatization process is now approaching its final stage, and any final agreement of purchase and sale must be approved by Devco's board of directors and the federal government. However, without the authority contained in Bill C-11, there can be no sale.

To which I say, "Just so."

I presume this bill will be referred to committee. This is the opportunity for the government to bring forward the details of the deal that is being negotiated, so that we may see what assurances there are in respect of coal mining in Cape Breton, and whether coal mining will continue in Cape Breton, and whether these 500 jobs and this reinvigorated industry to which the Leader of the Government referred are a reality or just a pious hope. Bring these issues to the committee, and we will examine and pronounce on them.

I tell you, honourable senators, in all seriousness, we should not pass this bill until we have had the opportunity to pronounce on the disposition of the assets and the disposition of the Cape Breton Development Corporation. We should not pass this bill until we are entirely satisfied that those terms and conditions are fair and just to the people of Cape Breton, and that the honour of the Crown has been upheld.

Hon. Nicholas W. Taylor: Would Senator Murray permit a question?

Senator Murray: Certainly.

Senator Taylor: I gather it is Senator Murray's argument that we should not confirm the final sale until the agreement of purchase and sale is brought back to Parliament to be approved. Does he think that is a practical way of proceeding?

Senator Murray: Honourable senators, at a minimum, Parliament should be completely cognizant of the terms and conditions.

With great respect to my honourable friend, the argument of practicality and convenience is one that is always put forward to justify short-circuiting the rights of a parliamentary democracy. I do not accept it for one moment.

Senator Taylor: It seems we are approaching something not dissimilar to the proposed transport legislation where we are introducing an ombudsman to ensure that competition is encouraged and that the public is not exploited.

After years of being in business I know — I am sure Senator Murray will agree with me — that it is difficult to reach an agreement that cannot be averted on some level.

Has Senator Murray given any thought to the appointment of an ombudsman who would oversee the operation to ensure that coal is not brought in or substituted for that coal outlined in the contract, and to ensure that people are not unjustly laid off? Would Senator Murray consider such an appointment?

Senator Murray: One could try to amend the legislation in some way, I suppose, along those lines.

I have not examined the legislation to which my friend refers. I have my own views about the commercial passenger air traffic in this country. In a nutshell, they are that we must not have, nor must we permit, an unregulated monopoly. Whether that bill is satisfactory or not is something I would want to review at another time.

It is perhaps the more practical solution, at least at the beginning, not to try to anticipate every eventuality by amending Bill C-11, but rather consider what is proposed by way of the terms and conditions of sale.

I would be the first to acknowledge that there is such a thing as commercial confidentiality. I have no problem with that. However, I do say that Parliament and the people must know what is being done and what assurances there are to back up the statements that our friends, the Leader of the Government here, and Mr. Goodale in the other place, have made with regard to the continuation of this so-called "reinvigorated" industry in Cape Breton in the future. That is the issue upon which we must satisfy ourselves. We cannot anticipate every eventuality that may occur years down the road. At the least, reasonable people can examine a closed contract, post agreement, and come to their own conclusion as to whether it is fair, just and honourable.

Before I came to the chamber today, I reviewed the legislation to privatize Air Canada and CN. It is true that in those cases Parliament did delegate to the minister a significant amount of authority. However, in those instances, we were dealing with companies that were a going concern. No threat was felt by anybody that the railways or Air Canada would cease operations. The provisions that were made were for a public share offering, as my colleagues know.

Even in those cases, we hummed and hawed about having legislation with conditions. Parliament went so far in the case of Air Canada to spell out in the bill that they had to continue maintenance operations in Winnipeg, Mississauga and Montreal. We stipulated that the Official Languages Act would continue to apply. We also stipulated how much individual and foreign ownership would be allowed, and so forth. It was quite detailed legislation, and that was in the case of a company that was a going concern.

Devco is still the major employer and the major economic activity for a number of communities in Cape Breton. I do not wish to make more of the point than I made. It is simply vital that Parliament not just hand off to the Governor in Council the right to dispose of it.

We had better take our responsibility on this matter and carefully consider the proposal and make our best judgment as to whether what is proposed is in the interests of the Crown and, most of all, in the interests of those communities which have depended so long on this federal Crown corporation.

Senator Taylor: Senator Murray's thoughts are most interesting, as always.

I am a mining engineer in Alberta, one of the last to graduate with Alberta Coal. I am older than the honourable senator, and I remember at one time, in Alberta, coal mining employed more people than even Cape Breton. In fact, in the 1950s, we imported coal miners to work in our coal mines. However, although we have more coal than Cape Breton, the quality is not as good.

Perhaps Cape Breton is at the same point Alberta was at in the 1950s. The oil and gas industry there is just starting to take off. Geologically speaking, I believe I can assure the honourable senator that Cape Breton probably has reserves closely equivalent to or equivalent to those of Alberta. It will just take time to get them underway. If you go into this idea of keeping an industry alive — and it is an energy industry, although later on it might be a metallic industry and it may be an ideal place to sequester carbon — would you not be looking at something which would allow the transition to take place to a free market economy rather than trying to perpetuate this situation in the future?

(1630)

Do not get me wrong, honourable senators. Coal may very well be valuable in the future. I am saying that as of now the oil and gas industry is looming on the horizon, just as in Alberta in the 1950s. It more than made up for the number of jobs we lost in coal mining. There was room for everyone, their children and their relatives. People even phoned Cape Breton to get their relatives to come out to work in the oil and gas industry at that time. Obviously, Nova Scotia is on the brink of breaking through into a whole new employment field.

Since the honourable senator is a member of the free market party, does he not think that the system should allow people to adjust rather than being encapsulated into an old industry?

Senator Murray: Honourable senators, I hope and believe that my honourable friend's optimism about the future economy in that area as a result of oil and gas discoveries is well founded. I also gratuitously express the hope and belief that governments, notably governments in those provinces, and in particular that of Nova Scotia, will be sensible and long-headed in the way in which they treat that resource.

What my honourable friend is suggesting is exactly what appears to be proposed in this bill. First, there will be a transition from a subsidized federal Crown corporation to a privatized entity. As the Leader of the Government has reminded us, we will have a coal industry that will be smaller, that will not be government owned but that will be, as he said, reinvigorated and employ 500 people. Thus, what is proposed is a transition.

My position is that we, the Parliament of Canada, are about to authorize, it would appear, the Governor in Council to divest itself of an asset that we have had for 33 years. I want to be sure that Senator Buchanan is not right that it is going as a fire sale. I want to be sure, as do the people of Cape Breton, that what is happening here is not some kind of smokescreen, some kind of elaborate procedure to conceal the fact that the buyer is not interested in continuing to mine coal in Cape Breton but only to get hold of a pretty lucrative contract with Nova Scotia Power which they will supply by importing coal from the United States, Colombia or wherever.

Sure, I belong to a party that believes in the free market. I believe in the market. However, the market has its limitations, as my friend knows. The sooner we realize that the market is amoral and agnostic as to human social values, as it should be, since its business is to produce goods and services at a profit, the sooner we will accept the role of government, which is peace, order and good government. I am with the Robert Stanfields of this world, who believe that the "order" in peace, order and good government strongly implies a social order in which there is some effort made to see that there is equality of opportunity and some redistribution of the wealth of the nation. That, however, honourable senators, is another story.

The Hon. the Speaker *pro tempore*: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Boudreau, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Bill C-16 is entitled, "An Act respecting Canadian citizenship." However, if you read the bill, the pith and substance of it suggests that it would be more correctly entitled "the Canadian naturalization act." The bill is about citizenship acquisition and the technical matters relative thereto; it is not about the richness of Canadian citizenship. Thus, why are we

calling it the Citizenship Act?

Second, in my view, the government has missed an excellent opportunity to introduce a real Canadian citizenship act which, at the launch of the 21st century, would have spoken to the vitality of Canadian citizenship, the citizenship that is shared by 31 million Canadians.

Third, on May 6, 1993, our own Standing Senate Committee on Social Affairs, Science and Technology presented to the Senate a report entitled "Canadian Citizenship: Sharing the Responsibility." In this report, our own committee observed that, in many ways, Canadian citizenship is a treasure to discover. In its study, the committee unearthed a multitude of elements that undergird a modern conception of Canadian citizenship, a conception of our citizenship in the world of the 21st century.

The forward to our report reads as follows:

We viewed this inquiry as an opportunity to ask some fundamental questions and to think of ways in which Canada's *Citizenship Act* could be amended to strengthen Canadian citizenship, and enhance its value for our country, ourselves and our children.

Honourable senators, it is a pity indeed that the officials who drafted Bill C-16 failed the government by basing this legislative proposal on the sterile naturalization approach to citizenship, the orientation of the past. Rather they could have submitted to government a model that would speak to the Canadian citizenship shared by all Canadians who are focused on active citizenship in the world of the third millennium. What a pity indeed, given that the bureaucrats had only to turn to a Senate study for the required inspiration.

On page 13 and 14 of the report, we read that the current Citizenship Act came into force in 1977. It was intended to clear away some of the anachronisms of the 1947 statute which, as honourable senators realize, was the first Canadian Citizenship Act in Canada. The 1977 act removed the British preference and those provisions that discriminated on the basis of gender.

Plural citizenship was also accepted under the new changes; and citizenship was no longer to be considered a privilege to be granted to those qualified but, rather, a right which could be exercised by anyone with the requisite qualifications.

The committee's report also states:

However, as a Committee, we are convinced that it is time for the Government to enact a new *Citizenship Act*, one that clearly reflects contemporary realities.

The Act should recognize the pluralist nature of contemporary Canada as well as reaffirm the fact that we are an officially bilingual nation. In addition, it is important that the Act provide both a clear statement of citizenship rights and responsibilities. A new Citizenship Act must be one with which all Canadians, including our aboriginal peoples can enthusiastically identify.

(1640)

We therefore recommended — and this was a recommendation adopted by this house:

That Parliament enact a new Citizenship Act....That the Act reflect the pluralist, officially bilingual and multicultural nature of Canadian society and that it provide a clear statement of citizenship rights and responsibilities.

Honourable senators, we were not listened to, once again, so here we are in the year 2000, but I think it is still quite appropriate that we ask the following questions. Why should we have a Citizenship Act that would provide a clear statement on the rights and responsibilities, not of new Canadians, but a Citizenship Act that speaks to every one of the 31 million Canadians? What are we doing bringing in, under the guise of a Citizenship Act, an act that speaks to naturalization, an act, quite frankly, with which the vast majority of Canadians cannot identify?

In answer to that question, I am reminded of the testimony of the Canadian Citizenship Federation before our committee a few years ago. They stated:

It is with some anxiety that we see our symbols being dubiously used. In some areas of the country, young people assume that the national anthem is something sung at hockey games or at the Olympics when a Canadian athlete wins a medal. The flag is draped carelessly and limply on tops of buildings or shoved into a corner at official functions or behind a screen. We are not proud to be Canadians. We lack the cutting edge. We do not offer excitement or challenge and we fail to make being a Canadian citizen a fervent choice.

Honourable senators, I think you would agree that there is much truth in that statement of our witnesses. As Canadians, we do take for granted our way of life. We tend not to appreciate the many rights and responsibilities we are privileged to have.

One of our most important civic rights and responsibilities as Canadian citizens is the right and responsibility to vote. As mentioned — and it is worth underscoring this afternoon — the right to vote is one of the few rights that is limited or specific to Canadian citizens in our constitutional Charter of Rights and Freedoms. Through the vote, for example, citizens exercise a direct input in the shaping of our government. It is a democratic right of citizens to participate in shaping not only the nature of government but also government policy. However, with this right comes the responsibility to be informed and aware of the issues

facing our country. We all have a role to play in providing a framework for these responsibilities to be met, through education and promotion. To this end, I had expected that the Government of Canada would have given priority to introducing into Parliament a new Canadian Citizenship Act that would have laid out the rights and responsibilities that speak to the 31 million of us living in this great land.

A new Citizenship Act surely ought to be speaking to all Canadians, whether we are young or old, whether we have acquired our citizenship through naturalization or through birth. Such an act surely will serve to codify our shared values and visions.

The preamble of a new Canadian Citizenship Act should be the statutory locus of the ideals and values brought forward by Canadians during the past few years. There should be a preamble of this kind in a contemporary Canadian Citizenship Act, one wherein we could set out the values that Canadians have said they cherish most: the equality of women and men; a commitment to full participation in our country by all citizens without discrimination; the recognition of the historical rights of the aboriginal peoples within Canada; the importance of the bilingual nature of our country; and the contribution of peoples from many cultures and lands in building the nation that we cherish today. Most of all, we should have a preamble in our Citizenship Act in which we can entrench the quintessential Canadian balance between the personal freedom we all enjoy and the personal and collective responsibility we require of one another. Not every Canadian will find all the same things to cherish in this land, and we will have different symbols, poetry and prose that inspire us. This is not only acceptable for the purposes of a new act, but, indeed, it is one of the values most central to it — the diversity of thought and the diversity of cultures and visions that collaborate in order to form this great experiment known as Canada.

Citizenship, then, is the vehicle by which diverse ideas and viewpoints may be brought forward by every Canadian, to build upon and to learn from the ideas and viewpoints of others. The role of citizenship is to ensure that every citizen may contribute to and feel a part of the synthesis of our national discourse. That synthesis is what ultimately becomes our nation.

[Translation]

Honourable senators, attempting to define the essential nature of Canadian citizenship has become a sort of national pastime. The proximity of the United States and our symbiotic relationship with this world power help to explain why Canadians are trying to differentiate themselves from their American neighbours.

If this exercise stimulates discussion and reflection, it would be pointless to look for an ideal. Certainly, we must identify closely with our country, but this identification can be from different perspectives and connotations in the case of the values we hold dearest. Perhaps this is the essence of Canadian citizenship.

The rights conferred by citizenship are more apparent than the responsibilities it imposes. According to what many witnesses have said, it is at our own risk that we perpetuate an unbalanced view of citizenship, one that focusses more on rights than on responsibilities. The civil, political and social rights inherent in citizenship must be offset by a responsibility that involves a contribution to the community. Citizenship presupposes a commitment in an area beyond personal interest.

Canada's history, honourable senators, its regional contacts and its cultural composition have promoted the development of a civic virtue that tolerates diversity and varying degrees of attachment, while allowing us to recognize the reciprocal benefits of our independence.

[English]

Canadian democracy is contingent upon an aware and educated citizenry. The principal need of modern democracy is that all citizens have the skills and information to make sound choices. People are not born with an instinctive knowledge of civics, but, rather, government policies and institutions must give citizens the skills and knowledge necessary for civic participation. Without this, populist cries ring hollow and phrases like "participatory democracy" remain more suited to theory than to practice.

(1650)

Today in Canada, citizenship education, regrettably, is a sorely neglected area. Political education is taught in a passive sense, focusing more on memorization of facts and structure than on participation in the political system. There has been little innovation or attention given to civics programs in our schools across Canada since the mid-1960s, and there is no national focus.

Education, as we know, is a multi-billion-dollar-a-year investment for Canadians. Surely, given the financial commitment to the educational system, it is not too much to ask that we play a role in preparing students to be full and active participants in the democracy Canadians treasure so much.

Our Senate committee studied Canadian citizenship, a study which was completely ignored by the drafters in the bureaucracy as they put together this naturalization bill. Our committee underscored a number of ways by which we can improve the standard of citizenship education in this country. We can develop new modules for multicultural education which, by incorporating content about cultural groups and their perspectives into the curriculum, can help students appreciate more fully our pluralistic society and can incorporate group participation and interaction into our curricula. We can develop programs based on developing critical thinking skills instead of on rote memorization. In short, we should ask that a program be devised which empowers our future citizens to feel that they can make a difference in our society.

In our Senate study on citizenship we examined other successful programs in citizenship education in other parts of the

world, such as the "civitas" model in the United States which serves as a curriculum framework for schools in that country.

Honourable senators, the true goal of citizenship education is not only to increase the rates of civic participation, but also to nurture confident, reflective, and responsible participation. We all know too well the pervasive cynicism about democratic input that exists in this country. Now is the time to invest in the future of our democracy by showing our youth the potential in hopeful public commitment and to inspire them to join in the quest for the public good as active citizens.

In conclusion, regrettably, Bill C-16 does not speak to any of these citizenship issues which affects 31 million Canadians. The machinery of government, as presently structured, wherein the responsibility for Canadian citizenship is coupled with responsibility for immigration, has clearly shaped or skewed the thinking that underlies this bill. It is focused toward the issue of citizenship acquisition or naturalization and does not address the need for a Canadian citizenship act with which every Canadian could identify.

Hon. Sheila Finestone: Honourable senators, I wish to ask a question of Senator Kinsella. I listened with great interest to his very clever observations on citizenship in Canada. I believe that citizenship acquisition is an integral part of a citizenship act and that a preamble could be an important asset to this bill.

I believe that that which you call "naturalization" is an important part of citizenship acquisition. If a proper preamble were included, would the honourable senator find this bill more acceptable?

Senator Kinsella: I thank the honourable senator for the question. The answer is, yes.

The Hon. the Speaker pro tempore: I regret to interrupt the Honourable Senator Kinsella, but his allotted time has expired.

Is the honourable senator requesting permission to continue?

Hon. Dan Hays (Deputy Leader of the Government): I suggest that we give leave for Senator Kinsella to respond to questions for another 10 minutes.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Kinsella: The answer to Senator Finestone's question is yes. Indeed, I believe that this is an opportunity for the Senate to do the fine work that it can, in the committee that will be examining this bill.

One part of the bill does give the citizenship commissioner a certain educational responsibility, although I believe that it refers to "new" citizens.

There are many technical problems with the bill particularly as it relates to naturalization to which other senators have alluded. We all understand how things work in this town. Certain people in the Department of Citizenship and Immigration drafted a bill and gave it to the minister. You must understand that the citizenship branch is part of the Department of Citizenship and Immigration. It was not always so. When our colleague the Honourable Senator Joyal was the Secretary of State, the citizenship branch was in the Department of the Secretary of State. When that was the case, that ministry also dealt with issues of citizen participation, issues of multi-culturalism, and issues of volunteerism.

In other words, the corporate philosophy of the Department of Secretary of State was the participation of the total population of Canada. The citizenship branch had a registration unit, located in Sydney, Nova Scotia, where all applications for Canadian citizenship were processed. That was a unit within a department that spoke, in its corporate philosophy, to all Canadians.

The Campbell administration reorganized the machinery of government. It broke up the Department of Secretary of State and put the citizenship branch with immigration. That is why it no longer speaks to all Canadians. Most Canadians are not new Canadians, but rather Canadians by birth. The corporate philosophy in the Department of Citizenship and Immigration is focused on the issue of immigration rather than promoting good citizenship of the entire citizenry. No one is doing that. That is how we probably ended up in this situation.

(1700)

Perhaps the committee would want to delve into this, honourable senators. Why is it that, in this particular bill, there seems to be this focus on citizenship revocation? Is it that officials in the Department of Justice, who are dealing with issues like war crimes or issues of people acquiring Canadian citizenship who are under investigation for allegations of war crimes in the past, wanted to have an easy way to revoke citizenship? Where did that dynamic come into play? Again, none of it seems to have been based upon a view of Canadian citizenship that involves the vast majority of Canadians. That is its weakness. It is a weakness — and perhaps one of the challenges in our country today — that we do not have an easily articulated public statement that a preamble to a Canadian citizenship act might very well provide.

I apologize for my long-winded answer, but it gave me an opportunity to express concern and wonder out loud as to how this all came about. I am not criticizing government, but I do have questions about those who serve governments.

Senator Finestone: I think the goal the honourable senator alludes to is a good one. One must remember that the educational aspect of citizenship is also a provincial responsibility, and we must bear that in mind in the way that we approach it. Perhaps

the educational channels of television may be a good tool in that regard.

I would remind the honourable senator that the proposed section 31(7)(b) is quite specific in its definition of the various roles of the new citizenship commissioners. It states "to promote active citizenship in the community." It does not say that it is to promote active citizenship only towards new Canadians. That is one of the five or six responsibilities that the new citizenship commissioner will have.

I thank the honourable senator for his most interesting observations. They certainly will require careful consideration. I hope that some of the creative ideas that Senator Kinsella has put forward will be brought to fruition in a medium other than either this place or the Citizenship Act.

Hon. A. Raynell Andreychuk: May I ask a question of the honourable senator? Senator Kinsella quite eloquently stated that the weakness in the bill is that it does not speak to all citizens. I share that point of view. Since the bill does not do that, and since it seems to reduce the number of safeguards for those people who become citizens from "offshore," if I can call it that, the bar for the test for revocation has been left where it is, at a low level or standard.

Does the honourable senator believe, therefore, that if the bill is not amended that it will drive the wedge even farther between those who were born here and those who come here than does the existing law?

Senator Kinsella: The short answer to that question is yes. I do believe that it will create two categories of citizenship, which is intrinsically evil, in my view. I am also concerned with the "citizenship by probation," almost, to which this bill, if passed, would lead.

There is also, honourable senators, the matter of the oath that is being proposed in the bill. Mr. John Bryden, Member of Parliament in the other place, spoke eloquently about his concern with that clause of the bill. I would simply commend honourable senators to read what Mr. Bryden had to say. This is one of those situations where one of the bureaucrats came up with something that looked good. The House of Commons had an opportunity to examine this issue for a long period of time in committee when it was dealing with Bill C-63. It has now spent some time on Bill C-16.

It is extremely important for our committee to get to the bottom of this. I believe that we can make some very important amendments. We hear horror stories about due process and human rights. However, I am anxious to encourage colleagues to focus on amending this bill so that it will be a contemporary Canadian citizenship act that speaks to all of us, one that and situates Canada in the world community of the 21st century.

On motion of Senator Kinsella, for Senator Di Nino, debate adjourned.

COMPETITION ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-276, to amend the Competition Act (negative option marketing).—(*Honourable Senator Andreychuk*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, when I first arrived here in the Senate 10 years ago, one of our distinguished, now retired, senators, Heath Macquarrie, came to me because I had the audacity to stand up twice one afternoon to speak. If I were to speak now, that would be the third time today — and on a Thursday afternoon. Therefore, I will not speak to this bill today but I will do so next week.

Hon. Sheila Finestone: Honourable senators, perhaps we could complete this expeditiously before six o'clock, and move the bill on to committee.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, other than Senator Kinsella, I know of no other senator who wishes to speak to this bill. It is now a few minutes before six o'clock. As I look down the Order Paper, perhaps out of consideration for Senator Finestone, we should hear Senator Kinsella. I do not know whether his speech will be long, but knowing him as I do, his excellent interventions always prompt questions. However, that is the risk that we will have to take.

Senator Kinsella: Thank you, honourable senators. I will give you the abridged version.

I do not like it when I get a bill in the mail that tells me that I owe a cable company a certain amount of money for something I did not order. That is the pith and substance, as I understand it, of Bill C-276. Rather than search to be an architect of words around that basic principle, I would just say: "I do not like that." Thus, I do like the principle of this bill, and I support the principle of the bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Finestone, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[Translation]

(1710)

DEVELOPMENTS RESPECTING EUTHANASIA
AND ASSISTED SUICIDEREPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY
COMMITTEE—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Mercier, for the adoption of the seventh report of the Standing Committee on Social Affairs, Science and Technology entitled: "Quality End-of-Life Care: The Right of Every Canadian," tabled in the Senate on June 6, 2000:

And on the motion in amendment of the Honourable Senator Corbin, seconded by the Honourable Senator Ferretti Barth, that the motion be amended by adding the following words:

":and

That the Senate request the Government to provide a comprehensive response to the unanimous recommendations contained in this Report within six months of the adoption of this motion.

Hon. Lucie Pépin: Honourable senators, allow me to take a few minutes of your time to express my support for the report on palliative care tabled in this chamber last week.

As you know, palliative care — which does not include only care provided to terminally ill cancer patients, but all types of care provided to any terminally ill patient — is at the core of the subcommittee's work on the updating of the report "Of Life and Death." This is so true that our committee's report deals primarily with the issue of end of life care, including palliative care.

During its work, our subcommittee found that palliative care is sorely lacking in Canada. Moreover, not only is palliative care lacking, but where it exists it is unevenly spread across Canada, with the result that it is difficult for people living in rural or remote areas to have access to such care. The subcommittee feels that these are major problems, since each Canadian is entitled, at the end of his or her life, to care that is provided with competence, compassion and respect. Palliative care must become an integral part of our health system and not only be available, through chance or privilege, to a limited number of people. It is the federal government's responsibility to act as a leader in this area.

As a nurse by profession, I am particularly interested in the issue of palliative care. Nurses are the central players in the delivery of care. Naturally, they do not act alone! In the best of all possible worlds, they work together with doctors and other health professionals, social workers, and pastoral care workers, to name just a few, and they do so as part of an ongoing and integrated process. Note that I say "in the best of all possible worlds" because the subcommittee noted that, right now, the situation is far from ideal. In fact, next to no progress has been made on most of the unanimous recommendations in the 1995 report, or what progress there is has been unsatisfactory. One conclusion of our report which, by the way, I urge you to examine, is that there is no political will to give palliative care the place it deserves in our health care system. To echo the words of our subcommittee's Chair, the Honourable Sharon Carstairs: "The dead cannot vote."

I wish, honourable senators, to illustrate my remarks using a few examples from the life and death report tabled five years ago. The report recommended an integrated approach to palliative care. Five years later, not only is there still no national palliative care strategy but, in all the restructuring of the health care system, no province has made palliative care a priority. That is why the subcommittee feels it is important for the federal government to take a leadership role in this area, a role that will, however, have to manage the feat of striking a balance with provincial health care jurisdictions.

Another recommendation was that the training of health professionals be improved in all aspects of palliative care. Five years later, a number of witnesses from whom we heard in the first phase of our work said that they found it regrettable that the training of future doctors, nurses and other health professionals remains largely incomplete. In fact, with respect to doctors, witnesses said that either they had received no palliative care training during their years at school, or this training was limited to a few hours which, in either case is inadequate.

Honourable senators, we must insist that tomorrow's physicians, nurses and others who will be dealing with terminal patients receive proper training in palliative care.

Another point is that all health professionals need more training, and better training, in pain management. Here again, five years after the report was tabled, many witnesses told us that for the most part, the training in pain management still left much to be desired. Others suggested that many physicians were hesitant to administer treatment or medication that was intended to alleviate suffering but was liable to hasten death, because of the impreciseness of the Criminal Code in this area.

I will not go on, because these are enough examples to demonstrate that palliative care does not receive all of the attention it deserves in Canada.

Today this may be merely regrettable, but tomorrow it might be dramatic. Honourable senators are not unaware of the demographic trends that characterize Canada. The ageing of the population creates a heavier demand on palliative care. The

incidence of certain diseases, such as Parkinson's, AIDS, cancer, not to mention other terrible conditions such as amyotrophic lateral sclerosis, commonly known as Lou Gehrig's disease, is generating pressure on the health system in favour of the development of palliative care. Still relating to demographic trends, the diversification of Canadian society means that palliative care will need to be adapted to fit people's belief systems.

As things are, palliative care is in the background of Canada's health system. As the subcommittee discovered, there is certainly a connection between this situation and the fact that it is difficult to plead a case for life-sustaining care, which is essentially aimed at pain relief, when the medical and social culture is focussed on cure. In other words, palliative care may pose a threat to people because it forces us to rethink our concept of medicine: that it is not only focussed on life, but also on making our departure from life a more comfortable process.

In fact, it is only at this level that palliative care forces us to think about our health care system in Canada. This is perhaps the best area for governance. Governance is a multi-faceted approach to managing that seeks to establish a link between civil society and the political system in orienting the collective future. Governance implies a network of exchanges between the civil, community and political, a network that operates on the logic of dialogue, consensus and collective construct. In the context of health care, governance implies that governments work with health care professionals — doctors, nurses, pharmacists — other stakeholders, for example social workers and volunteers and most importantly with the public in order to get the health care system to truly respond to their needs. Governance implies the desire to work together, mutual openness, dialogue and listening, all elements of end of life situations.

In a text to be published by the Royal Society of Canada, Monique Bégin argues in favour of the approach of governance in health care in Canada. However, there are some obstacles to this, including the lack of integration in Canada's health care system — so much so that Ms Bégin speaks of 13 health care systems in Canada — relations between the federal government and the provinces and territories and most importantly the public's exclusion from health care decision-making.

Honourable senators, we should keep in mind the spirit of such a proposal to establish a network of palliative care that would be accessible to all Canadians, regardless of their place of residence, age, wealth, disease or religion. Governance is a strategy that can help us preserve and renew a value which has so far been a trademark of our health system, namely universality.

I will conclude with a paradox. We can now communicate very rapidly with people at the other end of the world, but it seems that we are increasingly less able to communicate with our close ones, to alleviate the pain of those who are about to leave us, to develop with them a relation that is based on deep compassion. This sad paradox should spur us, as a society, to review our priorities.

[English]

(1720)

Hon. Sharon Carstairs: Honourable senators, I thank Senator Pélipin for her remarks today. I also thank Senators DeWare, Corbin, Roche and Beaudoin for their earlier comments.

I assure the Senate that I believe Senator Corbin's motion in amendment, which urges the government to report back to us in six months on our report, is an excellent motion and one worthy of all of our support.

Honourable senators, the response to this report has been tremendous, and if you have seen a little less of me these days in the chamber, it is because I have been handling a great number of media calls, talk shows and Canadian e-mails, letters and phone calls. Every single event in which I have participated or communication that I have received has been positive.

Honourable senators, this idea touches a deep resonance within the Canadian people and indeed in the media. I can only hope and pray it finds the same kind of resonance with governments across this country. I urge each and every one of you to support this motion.

On motion of Senator Maheu, debate adjourned.

FOREIGN AFFAIRS

EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE— BUDGET REPORT OF COMMITTEE ON STUDY ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Foreign Affairs (power to hire staff and to travel) presented in the Senate on June 13, 2000.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery moved the adoption of the report.

Motion agreed to and report adopted.

AGRICULTURE AND FORESTRY

PRESENT AND FUTURE STATE OF FORESTRY— BUDGET REPORT OF COMMITTEE ON STUDY ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Agriculture and Forestry (power to hire staff and to travel) presented in the Senate on June 13, 2000.—(*Honourable Senator Fitzpatrick*).

Hon. Ross Fitzpatrick moved the adoption of the report.

Motion agreed to and report adopted.

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— REFUSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL— INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poulin calling the attention of the Senate to the decision of the Ontario Government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.—(*Honourable Senator Carstairs*).

Hon. Sharon Carstairs: Honourable senators, it is my honour today to rise to speak to this inquiry. I must say that it is extremely difficult if not impossible for me to understand the decision of the Ontario government not to declare Ottawa, Canada's national capital, a bilingual area.

When one examines the role of Ontario in Canada's history, I am struck by the contributions of many Progressive Conservative leaders in that province — men like Bill Davis, who accepted with dignity and warmth the special responsibility of a premier representing a province with the largest population in the country. Bill Davis understood he had a special role to play on the national stage, and he played it in a manner that protected the less well-off provinces and the minorities, both linguistic and religious, in our special country.

Regrettably, his legacy and the lessons his legacy taught have not been learned or perhaps they are misunderstood by the present premier and his government. Had they learned these lessons, I am in doubt that they would have shown the generosity of earlier premiers and have recognized the bilingual nature, character and history of this, our capital city.

As a former history teacher who spent much of my teaching experience in Western Canada, I know that the concept of Canada as a bilingual country is not always an easy sell. Yet my students, after studying our history and the settlement patterns of our peoples, understood, albeit some of them grudgingly, that Canada entered into a partnership of French and English peoples in 1867. That partnership resulted in the bilingual nature of our national government. In 1968, formal recognition of official bilingualism corrected many wrongs suffered by linguistic minorities in this country.

It has never been our finest hours in Canada when we have been forced by the Supreme Court of Canada to be generous to our linguistic minorities. However, we seem to have failed to learn the lessons of past mistakes when we yet again make another.

The Ontario government, because it did not wish, I assume, to take some political heat in making this decision, refused to make a decision, preferring instead to pass it on to the transition team implementing the unification process in this city. They, too, have passed the buck and say it should be a decision of the new city council. The transition group has recommended that services, where required, be available in both official languages.

Honourable senators, in my view, that is simply not good enough. This is our capital city. In the capital city of a country which is officially bilingual, it is surely inconceivable that both languages will not exist in equality with one another.

Where is the generosity of a Richard Hatfield, who made New Brunswick a bilingual province? Why has his legacy somehow been forgotten?

It saddens me, as a property taxpayer of this city, one who is principally a unilingual Canadian, that we have so far failed to do the right thing, the Canadian thing. Our capital city should be a bilingual city.

On motion of Senator Kinsella, debate adjourned.

SUDAN

INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wilson calling the attention of the Senate to the situation in the Sudan.—(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, I note the late hour. I do not intend to give a full speech on the issue of Sudan, but I do want to commend Senator Wilson for the work she has done on behalf of the Government of Canada and the people of Canada in attempting to work to encourage the peace process in Sudan. I commend her personally and encourage her to circulate to all members of the Senate a copy of the speech she gave on May 11, 2000, to the Canadian Institute of International Affairs. In that speech, she succinctly laid out the problems of Sudan and how the world community has failed the people of Sudan. She commented on the issues that have been long standing, about their heritage of some colonial disasters, and their failed effort to build a nation state.

We are now in a situation where countless people are losing their lives in Sudan.

(1730)

I would highlight two points. The first is that Talisman Oil has been the subject of much debate in the newspapers for, first, being in Sudan, and second, in the words of Amnesty, being part of the process that encourages the government not to clearly deal adequately with the human rights issues and the other issues facing Sudan as a country.

One of the fundamental difficulties in Sudan for the Canadian government is the fact that the Canadian government has not a constant, coherent policy that deals with issues like those in Sudan.

On the one hand, we have Minister Axworthy, who has been very vocal and outstanding in his support of concepts of human rights and human security and, on the other hand, we talk trade. Trade is all, to this day, although I do hear from some quarters that we do not talk quite as loudly as we did in 1993.

It would serve the people of Sudan, our foreign policy, and the Canadian position if the Canadian government had a consistent foreign policy that defines what they mean by trade and what they mean by human rights. These cannot be separated by having the Minister of Trade speak with one voice and the Minister of Foreign Affairs speak with another.

To that extent, I believe that Talisman must answer for its own actions, and I am certain that Talisman would have received an update from the Government of Canada as to its position. Many European countries and others are working in the oil industry in Sudan. I do not believe that they would have received a clear signal from Canada that it would not serve their interests in the long run, nor Canada's, to be there.

In fact, when Minister Axworthy said that he was going to take immediate action against Talisman and then did not take action in the early months, that left everyone confused. That gave the government of Sudan and the rebel forces in the south room to manoeuvre, room to know that the international community, including Canada were not always speaking with one voice.

I again urge the Canadian government to reconsider how they marry ministers' comments and statements, and to have a cohesive policy on such issues.

At this moment, due to the fact that oil production contributes 22 per cent of the state's revenues and is expected to increase in the coming year, it is important that the Government of Canada redouble its efforts to ensure that there is some political will brought to the process of the peace negotiation.

Senator Wilson, in the IGAD process, cannot do it alone. She cannot bring the full force of Canada's will to the table. Countries such as Canada, Britain, India, Italy, New Zealand and Pakistan, who have been and continue to be in the oil industry, must come together to rationalize how their companies working in Sudan should continue to operate and what rules they must obey if they continue to operate, but at the same time, bringing combined political will to warn Sudan and to warn the southern region that they cannot continue to use and abuse their citizens.

I do not have time at this moment to go over the horrific position that citizens of the country have found themselves in. Millions have died. Millions have been put into slavery of one form or another. This cannot continue to go unnoticed.

This is one of those issues that grabs the attention of the press for a while and then it is put aside, but the plight of the people in Sudan has not changed. Therefore, if we are serious about our commitments and serious about human security, we must continue to do better than we have done in the past.

I commend the government for installing the new officer into the office in Khartoum. He will scrutinize Sudan. I know him personally, and I know that he will put his best efforts toward monitoring the situation and that he will give good advice to Canada.

It will serve all of us if we can work with the Canadian company, Talisman, to set the standards that they must live by and standards that we, as a Canadian Parliament, as a Canadian government, and as the Canadian people, wish to be governed by, and that we marry the two so that in the future, companies will not go into areas and have mixed or confused ideas of what is expected of them.

I hope that my urging here will be taken to the government and that it will be taken seriously and again look at our foreign policy, to ensure that we do not separate trade and human rights, but have a coherent and consistent policy so that when companies approach the Canadian government, they will know that they perhaps should not enter into a certain situation. Although it may be feasible for them from a profit point of view, it will not be in their long-term best interests to be doing business. That a business opportunity will increase or accelerate human rights abuses, should be made clear to them.

The international community continues to condemn the oil production in the south, of which Talisman is part. They continue to state that the oil development is exacerbating the problem and that civilians are being jeopardized by the actions of the oil companies. The Canadian government must continue to look into these concerns and to speak out strongly and take action where necessary.

I do not believe it is sufficient to have put an office in Khartoum and to continue to have Senator Wilson put her best efforts into the IGAD process. We need something more. We should not wait until the situation erupts again.

I had the privilege of representing Canada in Nairobi and have been in this war-torn area. These areas are exploited by the leaders when they see opportunities for profit. We must not give them opportunities to turn away from peace.

I hope that the Canadian government will do better in the future. There is an opportunity now in Sudan to do better. I trust that they will take up the pieces of the Sudan problem and exercise political will at cabinet level and make every effort to encourage the peace talks to reach fruition. In my opinion, they are stalled at this moment.

That completes the comments that I wanted to put on the record. I do not intend to speak further on this issue.

The Hon. the Speaker *pro tempore*: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h) moved:

That when the Senate adjourns today, it do stand adjourned until Monday, June 19, 2000, at 8 p.m.

Motion agreed to.

The Senate adjourned until Monday, June 19, 2000, at 8 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (2nd Session, 36th Parliament)
 Thursday, June 15, 2000

GOVERNMENT BILLS
 (SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	0	99/12/16		
				Foreign Affairs	99/12/09	0			
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs	99/12/16	2	00/02/09		
S-17	An Act respecting marine liability, and to validate certain by-laws and regulations	00/03/02	00/04/04	Transport and Communications	00/05/09	2	00/05/17		
S-18	An Act to amend the National Defence Act (non-deployment of persons under the age of eighteen years to theatres of hostilities)	00/03/21	00/04/04	Foreign Affairs	00/05/04	0	00/05/16		
S-19	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	00/03/21	00/04/06	Banking, Trade and Commerce					
S-22	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	00/05/11	00/05/18	Legal and Constitutional Affairs					
S-25	An Act to amend the Defence Production Act	00/06/14							
S-26	An Act to repeal An Act to incorporate the Western Canada Telephone Company	00/06/15							

GOVERNMENT BILLS
 (HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act respecting the election of members to the House of Commons, repealing other Acts relating to elections and making consequential amendments to other Acts	00/02/29	00/03/28	Legal and Constitutional Affairs	00/04/13	0	00/05/31	00/05/31	9/00

C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	0	99/12/14	99/12/16	35/99
C-5	An Act to establish the Canadian Tourism Commission	00/06/14							
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02	99/12/06	Subject matter 99/11/24	99/12/06		99/12/09	00/04/13	5/00
			99/12/06	Social Affairs, Science and Technology	99/12/07	2			
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4	99/12/08	00/03/30	1/00
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14	00/02/10	Aboriginal Peoples	00/03/29	0	00/04/13	00/04/13	7/00
C-10	An Act to amend the Municipal Grants Act	00/03/28	00/04/10	National Finance	00/05/04	0	00/05/09	00/05/31	8/00
C-11	An Act to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts	00/06/08	00/06/15	Energy, the Environment and Natural Resources					
C-12	An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts	00/06/01 (withdrawn 00/06/13)	00/06/15	Social Affairs, Science and Technology					
		00/06/13 (reintro- duced)							
C-13	An Act to establish the Canadian Institutes of Health Research, to repeal the Medical Research Council Act and to make consequential amendments to other Acts	00/03/30	00/04/04	Social Affairs, Science and Technology	00/04/06	0	00/04/10	00/04/13	6/00
C-16	An Act respecting Canadian citizenship	00/05/31							
C-19	An Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts	00/06/14							
C-20	An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference	00/03/21	00/05/18	Special Committee of the Senate on Bill C-20					
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14	99/12/15	-	-	-	99/12/16	99/12/16	36/99

C-22	An Act to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence	00/05/09 (withdrawn 00/05/11)	00/05/17	Legal and Constitutional Affairs (withdrawn 00/05/18)	00/06/15	0
C-23	An Act to modernize the Statutes of Canada in relation to benefits and obligations	00/05/11 (reintro- duced)	00/04/12	00/05/09	00/06/08	0
C-24	An Act to amend the Excise Tax Act, a related Act, the Bankruptcy and Insolvency Act, the Budget Implementation Act, 1997, the Budget Implementation Act, 1998, the Budget Implementation Act, 1999, the Canada Pension Plan, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Act, the Income Tax Act, the Tax Court of Canada Act and the Unemployment Insurance Act	00/06/14		Legal and Constitutional Affairs	00/06/14	
C-25	An Act to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999	00/06/08	00/06/14	Banking, Trade and Commerce		
C-26	An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence	00/05/16	00/05/30	Transport and Communications	00/06/15	0
C-27	An Act respecting the national parks of Canada	00/06/14				
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	00/03/23	00/03/28	-	00/03/29	00/03/30 3/00
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	00/03/23	00/03/28	-	00/03/29	00/03/30 4/00
C-32	An Act to implement certain provisions of the budget tabled in Parliament on February 28, 2000	00/06/07	00/06/13	National Finance	00/06/15	0
C-34	An Act to amend the Canada Transportation Act	00/06/15				
C-37	An Act to amend the Parliament of Canada Act and the Members of Parliament Retiring Allowances Act	00/06/15				

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-202	An Act to amend the Criminal Code (flight)	00/02/08	00/02/22	Legal and Constitutional Affairs	00/03/02	0	00/03/21	00/03/30	2/00
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02	00/05/18	Legal and Constitutional Affairs					
C-276	An Act to amend the Competition Act (negative option marketing)	00/05/18	00/06/15	Banking, Trade and Commerce					
C-445	An Act to change the name of the electoral district of Rimouski—Mitis	00/05/09	00/06/13	Legal and Constitutional Affairs					
C-473	An Act to change the names of certain electoral districts	00/04/10	00/06/13	Legal and Constitutional Affairs					

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13	00/02/23	Legal and Constitutional Affairs					
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin) (Dropped from Order Paper pursuant to Rule 27(3) 00/05/11)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02	00/02/22	Social Affairs, Science and Technology					
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02	00/02/22	Privileges, Standing Rules and Orders					
S-8	An Act to amend the Immigration Act (Sen. Ghitter) (Dropped from Order Paper pursuant to Rule 27(3) 00/05/04)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03	00/05/04	Legal and Constitutional Affairs					

S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault, P.C.)	99/11/04
	<i>(Dropped from Order Paper pursuant to Rule 27(3) 00/02/08)</i>	
	<i>(Restored to Order Paper 00/02/23)</i>	
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02
		00/02/22
		National Finance
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16
S-16	An Act respecting Sir John A. Macdonald Day (Sen. Grimard)	00/02/22
S-20	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	00/04/05
		00/05/09
		Energy, the Environment and Natural Resources
S-21	An Act to protect heritage lighthouses (Sen. Forrestall)	00/04/12
		00/06/01
		Fisheries
S-23	An Act respecting Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	00/06/06
S-24	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	00/06/13
S-27	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	00/06/15

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	-	-	-	99/12/08	00/03/30	

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Monday, June 19, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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THE SENATE

Monday, June 19, 2000

The Senate met at 8:00 p.m., the Speaker in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before we begin tributes to the Honourable Senator Perry Poirier and the Honourable Senator Ruck, I should like to advise you that in our gallery is Mrs. Joyce Ruck and her son, Douglas.

Hon. Senators: Hear, hear!

THE HONOURABLE CALVIN WOODROW RUCK, O.C. THE HONOURABLE MELVIN PERRY POIRIER

TRIBUTES ON RETIREMENT

Hon. B. Alasdair Graham: Honourable senators, I think all of us in this chamber tonight have reflected at sometime or another on the beautiful words of Dr. Martin Luther King, which he delivered in Memphis the day before his tragic death. He spoke about a dream, a dream that his children would one day live in a nation where they would not be judged by the colour of their skin but by the content of their character. That dream lived on. It lived on in all those people whose lives were shaped and guided by it and in all those people who believed that the challenges and injustices and inequities in life could always be beaten. Yes, they could always be beaten by the indomitable power of the human heart and the human spirit.

Senator Calvin Woodrow Ruck has spent a long, fulfilling lifetime guided by that dream, guided by the content of his character. In all the years he worked as a labourer and a porter with the CNR, and as a cleaner at CFB Shearwater, he kept his heart and his mind focused squarely on the promised land of freedom. Whether he served in community development or as a social worker or as a human rights officer who played a key role in the desegregation of public accommodation, Cal always looked with the heart. He would give freely of his time and his energy to the Nova Scotia Association for the Advancement of Coloured Peoples, among many others, winning a long list of honours in this country as a result.

• 2010

Tonight I refer to only a few of these, such as the Certificate of Honour from the Black Hall of Fame, the National Harry Jerome Award, along with an Honorary Doctor of Laws Degree from Dalhousie University. In 1995, he was made a member of the Order of Canada.

Senator Ruck has spent a lifetime fighting for a country in which our children and our grandchildren will have the fair opportunity to do their very best, a country where they will have the right to grow up equal, a country where children would not be judged by the colour of their skin but by the content of their character.

Calvin Ruck rarely missed an opportunity to proudly remind us in this chamber of the enormous contribution made to this country by black veterans in both world wars. Tonight, we bid adieu to a man who has always distinguished himself from those who may have the privilege of sight but who do not have the rare gift of vision. He has distinguished himself from those who fail to understand that the real things in life, such as hope and compassion, tolerance and human rights, are often invisible to the eye.

Calvin, it has been an honour and a privilege to have served with you in this chamber, and I join all honourable senators in wishing you and Joyce and Douglas — who is with his mother up in the gallery tonight — good health and much happiness in the years that lie ahead.

Honourable senators, all of us who know and love Atlantic Canada would agree that one of the loveliest sights that graces the landscape is —

[Translation]

...the tricolour flag, with its star, a mark of national pride...

[English]

The beautiful Acadian flag has flown proudly over a warm and talented people — a people who faced one of the cruellest events of the colonial period, the tragic deportations of 1755 to 1763.

While the star represents the Assumption, the special feast day of the Acadian people, it was also designed to symbolize the star of the sea, which guided sailors through tempests and around threatening reefs. In fact, the star of gold is a symbol of a people who travelled with courage and strength across some of the most turbulent and troubled waters on the planet. Because of the hard work and dedication of local educators and community leaders, like retiring Senator Melvin Perry Poirier, this colourful, proud, culturally rich and vibrant people continue to follow that star.

An accomplished educator, Senator Perry Poirier has been the leading promoter of the Acadian culture on Prince Edward Island. His distinguished 34-year teaching career culminated with his 15-year tenure as principal of St. Louis School in the gentle province where the Fathers of Confederation negotiated the Terms of Union and conceived the great national dream.

All the while, Senator Perry Poirier earned special recognition and respect for his continuing fight for the linguistic rights of the Acadians on the Island, which included service with the St. Thomas Aquinas Society, La Voix Acadienne ltée, and Entente Canada Communauté.

In the Senate of Canada, Senator Perry Poirier has continued to serve with equal dedication on the Fisheries Committee.

A teacher affects eternity, it was once said. He or she can never tell where their influence will stop. Tonight, as we wish Senator Perry Poirier much happiness in his retirement from this chamber, we think of the proud esprit de l'Acadie that he has helped so much to foster. We think of a nation that has fought all the vicissitudes of history, and, following its star, now basks in the sunshine of proud accomplishment.

We remember, as we say au revoir, that it has been the hard work and vision of Acadian educators like Senator Perry Poirier that has helped to keep the dream alive, no matter where they or their cousins throughout North America may live and flourish, under the proud flag of the star of the sea, and into a shared new chapter in a courageous history.

[Translation]

I wish Senator Perry an excellent retirement and many happy times with his entire family.

[English]

Hon. J. Michael Forrestall: Honourable senators, it is difficult to imagine summing up the life of anyone, let alone the life of the Honourable Calvin Ruck, who is a Cape Bretoner, a Nova Scotian, a Canadian, and a staunch defender of his culture. Few in this chamber can begin to understand the experiences of a black community activist in the Nova Scotia that I have known so well through the 1960s, 1970s, 1980s, 1990s and through to the year 2000.

The Honourable Calvin Ruck, as honourable senators know, was born in Sydney, on Cape Breton Island, and attended Sydney Academy. He started his life there, as Senator Graham has just indicated, as a labourer with Dominion Steel and Coal, and went to work as a porter with Canadian National Railway. He then worked as a cleaner at CFB Shearwater — a place where I spent a large part of my life playing basketball, and as a member of the sea cadet corps. Senator Ruck spent a number of years there. He was a voter. I am not sure quite how he voted, but I could guess.

In 1968, Senator Ruck went to work as a community development officer, serving in that position until 1981. During that period of time, he attended the Maritime School of Social Work, at Dalhousie University, where in 1979 he earned a

diploma in social work. What must have been for him years and years of built-up desire finally found the moulding and the training that allowed him to pursue his greatest goals, and those, of course, related to his community.

From 1981 to 1986, Senator Ruck was an unpaid adviser to the Human Rights Commission of the Province of Nova Scotia. He tirelessly worked to eradicate the last vestiges of segregation in our province, for which all Nova Scotians are eternally grateful. God bless Senator Ruck for that. I know Nova Scotians join me in that sentiment.

From 1986 to 1990, he was a community school coordinator at the Dartmouth School Board. It was a worthy record of public service that Canada and Canadians were not finished with the Honourable Calvin Ruck, and he was thus called to the Senate.

Honourable senators, Calvin has been honoured, as Senator Graham has said, time and again for his service to black Nova Scotians, Nova Scotia, and indeed Canada. He received the Certificate of Honour in 1981 from the Black Hall of Fame, the Freda Vickery Award for Social Work in 1987, the National Harry Jerome Award in 1992, the 125th Canada Anniversary Medal, an Honorary Doctor of Laws from Dalhousie University in 1994, and was appointed to the Order of Canada in 1995.

• (2020)

As a personal note, some of you will know that I am a great fan of military history, and Senator Ruck's work entitled "The Black Battalion 1916-1920, Canada's Best Kept Military Secret" is a worthy addition to our understanding of the First World War, Canadian society at the time, and the experience of black Canadians.

This hallowed place has been made all the richer due to your valued ideas and experiences, Senator Ruck. It is my hope that you enjoy your years of retirement with your wife, Joyce, and with your family.

Never have I seen you without a smile on your face, a smile I hope and know sprung from a job that you feel so far is half but very well done. We look forward to the next half.

Hon. Senators: Hear, hear!

[Translation]

Hon. Joan Fraser: Honourable senators, Senator Perry Poirier was appointed to the Senate only a few months ago. I should like you all to know how much I have appreciated having him here. First of all, for all that he symbolizes: the perseverance of the Acadian community of his Island, kindness, dignity and a constant willingness to help. He has shown those qualities to me, personally, and I shall never forget him.

[English]

As for Senator Ruck, I was fortunate enough to be given the seat next to his on the day I first arrived in this chamber, and I have been fortunate enough to share a seat with him ever since. We were talking soon after I arrived. He told me something of his history, some of the history that has been recited by my predecessors in this debate. He told me about how, when he was a porter on the trains, he was a porter because in those days that was all a black man could be. Black men were not even allowed to work in the kitchens on trains. They were not allowed to peel potatoes for the white people to eat. He told me about the years he had spent studying and working. He told me about the time when he and his wife were buying land to build a house and the neighbours on the street took up a petition to say he should not be allowed to move in there because he was black and they were not.

Senator Ruck told me a number of things that made me ashamed for my country, but what struck me most forcefully was that he told me these things with an absolute absence of rancour. He told me these stories as lessons that should be known because we must know from where we come, all of us, but he told them with absolutely no rancour, no resentment and no bitterness, only with an equally absolute tenacity for the search for justice. These stories were, and remain to me, a most moving testimony about what one Canadian can do, starting from even the most extraordinary handicaps.

It has been a privilege for me to sit beside Senator Ruck. Sometimes when I speak to audiences outside this chamber I tell them about his story. I see their faces shine at the beginning with shame but at the end with pride.

Senator Ruck, it has been an honour. I wish you and your family much happiness in your retirement.

Hon. Mabel M. DeWare: Honourable senators, I am pleased to add my voice personally, and on behalf of my colleagues on this side of the chamber, to those paying tribute this evening to our colleague, Senator Melvin Perry. At the same time, I am saddened by his imminent retirement from our ranks. We shall certainly miss him.

Although Senator Perry has not served as long as some in this chamber, he has, in his relatively short time with us, distinguished himself as a man of intelligence, integrity and compassion. These are qualities that stood him well in his 34 years as an educator and that enabled him to help prepare so many young people for successful careers and adulthood. The students at St. Louis School were lucky indeed to receive his guidance and counsel, both as a teacher and as a principal. His local community, as well as his fellow Acadians in Prince Edward Island, also knew the benefit of his hard work and dedication to many worthwhile causes in the community.

The people of Canada and Prince Edward Island particularly, as well as the province's Acadian community, also have reason to be grateful for the contribution Senator Perry has made to national affairs.

They are not the only lucky ones, honourable senators. We are fortunate he has shared his experiences and ideas with us, too. He has added to the public debate on a variety of issues that have aroused his passion and his sense of justice. He spoke eloquently in the chamber on a number of occasions including, as honourable senators may recall, during the recent debate on Bill C-20.

Senator Perry has also worked hard as a member of the Fisheries Committee under the guidance of Senator Comeau to help ensure that the concerns of Canada's fishing community are properly aired and addressed, and I imagine he paid special attention to his own Prince Edward Island.

It is not surprising that Senator Perry is keenly interested in fishing issues, as he hails from our wonderful island which, incidentally, is one of my favourite spots. While I have not had the opportunity to spend a great deal of time with him personally, I must confess to a certain affection for his island, a place my husband Ralph and I visited on a great many sailing holidays.

Of course, the fact that Senator Perry studied in my home province of New Brunswick also raises him in my estimation.

I should like to wish Senator Perry many long and joyous days as he spends his well-deserved retirement in the sunshine and serenity of the island. Although he was fortunate that his wife, Anita, has been able to travel back and forth with him to Ottawa, I know that he will enjoy spending more time with her and the children and grandchildren. I am certain that they will be thrilled to have him home once again.

With that to look forward to, honourable senators, we in this chamber are sure to miss Senator Perry's contribution and his companionship more than he will miss us.

Hon. Sharon Carstairs: Honourable senators, it is my pleasure to rise this evening to pay tribute to our colleague the Honourable Calvin Ruck. He has been with us just a short time, but he has taught us a great deal about courage. Calvin Ruck has spent his lifetime in a series of acts of courage, and the dignity with which he bears the physical ailments that he now has is simply one more example of his fortitude and dignity as a human being.

Honourable senators, as many of you know, although I represent the province of Manitoba in this chamber, I was born and raised in the province of Nova Scotia. However, I grew up in quite a different atmosphere to that of Senator Ruck. While I was white, economically advantaged, and with opportunities for a quality education, Senator Ruck had to strive to achieve equality in an atmosphere that was far less than equal.

My one regret is that it took me until I was a university student to understand the blatant discrimination in my city and province toward the indigenous black community. I did not learn these lessons from black Nova Scotians. I learned them from foreign students from the Caribbean who taught me of their difficulties in finding accommodation, getting services like haircuts, and being served with dispatch in stores and restaurants. I simply had no contact with black Nova Scotians. Segregation may not have been the law, but it was quite often the fact.

• (2030)

Senator Ruck grew up experiencing every one of these things and much more. What has inspired me since his arrival in the Senate is the courage and the strength of the human spirit that Senator Ruck possesses.

Senator Ruck has every reason to have a chip on his shoulder. He does not. He simply did not have time for such a chip to grow, as he was too busy fighting wrongs so that future children, his own, his grandchildren and all other black children in Nova Scotia would have the advantages that he did not.

In the summer of 1963, I was in Washington in front of the Lincoln Memorial when Martin Luther King gave his famous speech, "I Have a Dream." Senator Ruck has made that dream possible for many Nova Scotians of black descent by his courage, by his strength, by his dignity, and in a quiet way, although sometimes he was loud if the occasion called for it.

I thank him for all that he is and all that he has accomplished. Senator Ruck, it has been my privilege to call you a colleague.

[Translation]

Hon. Gerald J. Comeau: Honourable senators, I was sorry to learn at the start of this evening's session that the time had come to bid my good friend Senator Perry farewell. I should have liked to have had a bit more time to prepare a suitable tribute, but you will have to accept what I have to offer, Senator Perry.

I had the honour and privilege of sitting on the Fisheries Committee with you. I congratulate you on your commitment to your beloved province, Prince Edward Island, your great interest in promoting the fisheries, your work on the committee, and your general sense of commitment. I should add, former school principal that he was, Senator Perry had perfect attendance as a Fisheries Committee member.

Senator Graham has already mentioned your devotion to the Acadian community of Prince Edward Island. You have shown equal devotion throughout your whole time in Ottawa.

Senator Perry has always shared his sense of humour with his colleagues. He and Senator Mahovlich have become great friends. They were certainly the Mutt and Jeff of the fisheries committee, but I do not know which was Mutt and which was Jeff.

I should like to talk about the whales at Tofino on the coast of British Columbia, where Senator Perry tried to persuade Senator Mahovlich that one of the rocks in the ocean looked like a Prince Edward Island whale.

I must point out that the Fisheries Committee was the only committee in Ottawa with both a Perry and a Comeau as members! This was a good attention-grabber in many places.

It only takes a few minutes to get to know Senator Perry. He instantly becomes your friend. Even outside politics, I have never heard Senator Perry express a political idea that I could not support. It sometimes scared me to be that close to a Liberal, but maybe Maritimers or Acadians are like that.

Your fellow citizens in St. Louis are rightly proud of your contribution here in Ottawa, Senator Perry. Your stay with us has been too short, but quality, not quantity, is what counts. And while you were here, you did not sit on the sidelines.

As Fisheries Committee Chair, I greatly appreciated your presence, for you were always there to support me. On behalf of the people of St. Mary Bay in Nova Scotia, I say "au revoir", till we meet again.

In closing, I also wish to take this opportunity to wish Senator Ruck "bon voyage."

[English]

I did not get a chance to know Senator Ruck as well as I got to know Senator Perry, but from all of the esteem and the respect held for him by Nova Scotians, I can say as well that I think his stay here in the Senate was very welcome. He has been a marvellous representative of the people of Nova Scotia and of the people he tried to represent in a very effective way. I wish him goodbye as well as bon voyage.

Hon. Catherine S. Callbeck: Honourable senators, I, too, wish to rise and add my voice to those paying tribute to our departing colleague from Prince Edward Island Senator Melvin Perry. Senator Perry was the first Prince Edward Islander of Acadian descent to be called to this chamber in over 100 years. This fact speaks to the high degree of respect in which he is held in our home province.

Soon after Melvin was named to the Senate, I was invited to a function in his community to honour his appointment. There was a huge crowd at that event. I think everyone in the area was there. There was a lot of excitement and people were extremely happy. In fact, one would have thought that everyone there had been appointed to the Senate. At that gathering, there was a tremendous sense of pride in the fact that one from their area would now represent them in the Senate of Canada.

Senator Perry comes from a proud Acadian heritage. As Senator Graham has already mentioned, throughout his career, he has worked tirelessly to promote Acadian culture in the province of Prince Edward Island and he continued to do that in carrying out his senatorial duties here.

I know that all who have had the opportunity to work with Senator Perry in this place can testify to his hard work and his dedication. He was particularly active in the Fisheries Committee, and Senator Comeau, who is chairman of that committee, has just spoken to the great work that Senator Perry did in that committee.

Melvin, although you have only been in the Senate a short time, your presence and your dedication to the people of Prince Edward Island will be sorely missed. I know that back home in the province of Prince Edward Island, you will continue to work for the good of all. I wish both you and Anita many excellent years filled with health and happiness.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, today we are honouring an individual who has left an amazing mark on his colleagues in this place. I am proud to say as I stand here that Senator Ruck is from Sydney, as I am. Once from Sydney, by the way, always from Sydney.

Senator Forrestall: They will not hold that against him.

Senator Boudreau: Senator Ruck went to Sydney Academy, as I did, so I share that background with him.

Senator Forrestall: What happened to you?

Senator Boudreau: While I have only worked with Senator Ruck in this chamber for a relatively short period of time, I am familiar with his distinguished record of social activism in Nova Scotia. Also, I had the pleasure of a close association from time to time with his late brother, Winston, who was president of the United Steel Workers of America and had to find himself being very kind and patient in educating a young and inexperienced labour lawyer in Sydney. When I came to the Senate and met Senator Ruck, I quickly discovered that patience and kindness were Ruck family traits.

• (2040)

Senator Ruck has been well recognized as a social worker, community activist, volunteer, historian, a man who truly cares about his community.

Through his community development work and his writing, as Senator Forrestall mentioned, he has brought about a greater awareness and appreciation of the contribution that black Nova Scotians have made to his province and to his country. Senator Ruck has added a diversity of knowledge and cultural understanding to the Senate which is so vital to representing effectively all Canadians.

On many occasions, Senator Ruck has risen in his seat to speak about issues close to his heart. These include the contributions of the Black Service Battalion in World War I, the anniversary of legislation introduced in Nova Scotia concerning

human rights, and the appropriate marking of graves of black veterans in World War I.

Senator Ruck, you will be missed in this place. However, I am certain your family, your friends and your neighbours will be very pleased to have you back in Nova Scotia again on a full-time basis. We wish you and your family all the best in your well-deserved retirement.

Hon. John Buchanan: Honourable senators, this will sound almost as though I am repeating Senator Boudreau but I am not.

Like Senator Ruck, I am a native of Sydney. I shall say the same as Senator Boudreau, once a Sydney man, always a Sydney man. I am a Cape Bretoner. Senator Ruck is a Cape Bretoner. I worked in the Sydney steel plant. I was a member of the United Steelworkers of America. I knew the Ruck family of Sydney very well, in particular one very distinguished Ruck by the name of Winston who, over the years, became a close personal friend of mine, as Calvin knows.

I was very honoured, as I am this evening to tell honourable senators, that Calvin Ruck accepted an appointment to serve on the Human Rights Commission of Nova Scotia during my premiership.

I was present with him on many occasions in Dartmouth at the Black Cultural Centre of which I was made an honorary member. It was probably not at the same time as Senator Ruck was made a member of the Black Hall of Fame, but it was around that time in the early 1980s.

Senator Ruck's brother, Winston, was an extraordinary individual. I was very pleased to have appointed him to various boards in Nova Scotia, and Winston was always so pleased to serve on those boards with great distinction, as of course was Calvin over the years.

I like to look upon Senator Ruck as a social worker extraordinaire. I do not think there is anything — and Senator Forrestall would know more about this — that has gone on in social activism in the Dartmouth area with which Calvin Ruck has not been associated in one way or the other.

Calvin, you have been here in the Senate for two years. In that period of time you have made your mark here, the same way as you made your mark in Nova Scotia over the years in the field of social work and community activism.

As Senator Boudreau said, I know that Senator Ruck's family will be very pleased to have him home, but I want to tell honourable senators something about Senator Ruck. If you think for one minute that he will just go home and do nothing, you are very wrong for Senator Ruck will continue to make his mark. He will continue to do things for others, which has been the mark of his life as a steelworker and as an employee of Canadian National Railways. Calvin Ruck will always be that person who, after graduating with his social work diploma, worked diligently with the black community of Nova Scotia and with many involved in social work and social activism.

Senator Ruck, we shall miss you. I will miss your company on the flights to Halifax and coming back. Just being here with you over the last number of years made one feel very comfortable.

God speed to you and to your family as you leave the Senate of Canada.

Hon. Senators: Hear, hear!

Hon. Calvin Woodrow Ruck: Honourable senators, first, I wish to express my thanks and appreciation to the gentlemen and ladies who spoke on my behalf. Your kind words were very touching. I am pleased to know that people appreciate the efforts I have made to date.

Mine was a very unexpected appointment. I will tell honourable senators briefly how it all came about. I received a phone call from a gentleman claiming to be a staff member in the Prime Minister's Office who wanted to know if I would allow my name to go on the short list. I had no idea at all what the short list was for. It was all brand new to me. As my wife often says, I am not normally a person associated with politics. I think her exact words were, "He is not a political person." There is a lot of truth in that.

However, I have learned some things during my two years here. It has been a good experience. I have had a great deal of help from my fellow colleagues with respect to how the system works. It has been very interesting and very educational for me. After a number of years at home, taking it easy and doing a little gardening, this has been very good. I have met some wonderful people and we have come a long way.

I like the phrase "the winds of change" which people use when speaking about human rights. The remark was coined by the late Sir Harold MacMillan when he was prime minister of Great Britain. He pleaded with the people of South Africa to recognize "the winds of change." His words fell on deaf ears. However, Nelson Mandela then came onto the stage and they literally wiped out of the political scene those people who did not see them as equal persons.

I have had no problems here. No one rebuffed me. I did not run into any racism. We have come a long way, and we still have a long way to go.

To finish my story, when the gentleman from the PMO called I put him on hold for a period. I then told him that I had to think about it and discuss the matter with my wife. It is not an easy matter to just close your house up, put a lock on the door and go off. We thought about it for awhile, and my wife was in favour of it. When he called again, I told him I was still giving it some consideration. Finally, a telephone call came from the Prime Minister himself. It is quite an honour to have the Prime Minister call. I put him on hold for a brief period while I was still thinking about it.

I am glad I decided to come to Ottawa. It has been a wonderful experience for me. I have learned something about Parliament

Hill. I knew nothing whatsoever about politics. As my wife says, I am not a political person. I have met some wonderful people here, some of whom I knew before. They have helped me along the way. We have come a long way in terms of race relations.

• (2050)

I recall my first visit to the city of Toronto. The train arrived late and did not serve any breakfast. A friend of mine, who just got out of the army, and I decided to go to a restaurant not far from the CNR station, and we were turned away. When we asked why, we were told that blacks had caused quite a stir in the prior couple of weeks. We said that we were not from Toronto but were visitors to the city. That, apparently, did not matter. We have run into stumbling blocks, but the winds of change have blown.

Prime Minister Trudeau brought in the Canadian Human Rights Act. That legislation had a major impact on black communities and on my life. We do not have to be afraid now to go into barbershops. I recall going into a barbershop run by the president of the barber's union in Dartmouth, Nova Scotia. I do not know if other honourable senators have ever sat in the chair of an angry barber. It is a frightening thing. He was angry because he knew I was within my rights to receive service from him. I told that barber that to refuse to serve me was to break the law. The human rights people visited him and straightened him out. We have come a long way, indeed.

Honourable senators, this is a wonderful country in which to live. Conditions have improved considerably in Nova Scotia. One thing I have learned from living in both Nova Scotia cities is that Sydney is light years ahead of Halifax in terms of race relations.

Some Hon. Senators: Hear, hear!

Senator Ruck: I worked alongside Cape Bretoners in the steel plant at Devco and got along quite well. Minority persons, blacks and immigrants from Hungary and other Western countries had the same kind of problems that blacks did. There was discrimination in terms of jobs to which blacks could aspire, but we made a living. Most of our relatives and friends came from the West Indies. They came to a brand new environment and climate. They found living in Sydney a wonderful experience. That city could serve as a model for the rest of Canada.

Hon. Senators: Hear, hear!

[Translation]

Hon. Melvin Perry Poirier: Honourable senators, when Senator Ruck spoke about the past, I could not help but think about what the Acadians went through a few centuries ago.

I am also familiar with the deportation of the Acadians. I am not going to talk about history this evening. I wish to thank all those who had such kind things to say about me. I am not sure if it is all true, but I appreciated it just the same.

I should like to take this opportunity to thank the Prime Minister, the Right Honourable Jean Chrétien, for appointing me to the Senate last summer, and also Senator Graham. I should also like to thank all those who helped me during my stay in Ottawa. I cannot name you all individually for fear of forgetting someone. Spending time among you in recent months has been quite an experience for me, a very instructive one.

[English]

Honourable senators, I wish to sincerely thank you all for the concern you have shown me. May you all have a very pleasant summer.

Hon. Senators: Hear, hear!

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I call for Senators' Statements, I should like to draw your attention to a particular visitor in our gallery, one of our past senators, the Honourable Joan Neiman.

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

THE LATE HONOURABLE JOHN WALTER GRANT MACEWAN, O.C.

TRIBUTES

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, when I returned home last Friday to Calgary, I noted at the airport that all the flags on public buildings and many flags on other buildings were flying at half mast. I learned that this was out of respect and in mourning for the loss of the Honourable John Walter Grant MacEwan, who was in his ninety-seventh year. I rise to pay tribute to him now.

Grant MacEwan was born in Brandon, Manitoba, in 1902. Although he was educated in Guelph, Ontario, and Idaho, having spent the beginning of his career teaching agriculture at the University of Saskatchewan and the University of Manitoba, it was as an Albertan that he will be remembered.

Grant MacEwan was a man who enjoyed a rich and surprising variety in life. It was after his days as an academic that he started, as he would say, "poking into politics."

Grant MacEwan was an alderman in the City of Calgary, a member of the Alberta legislature and a leader of the Liberal

Party of Alberta. Grant MacEwan was also a very popular mayor of the City of Calgary. It is in this capacity that I remember him best, as he succeeded my father in that role.

Shortly after serving as mayor, Grant MacEwan was appointed Lieutenant-Governor by Prime Minister Lester B. Pearson. Grant MacEwan proved to be one of Alberta's most-loved lieutenant-governors during his time in office. He logged over 400,000 kilometres within the province, participating in countless events and touching fellow Albertans with his humour, honesty, thrift and modesty.

Grant MacEwan was also a prolific writer, storyteller and historian, having published 56 books in his long life. Albertans do not remember Grant MacEwan primarily for his public roles or achievements, but instead for what he represented. In a way, Grant MacEwan represented what Albertans most want to be and what we are at our best.

Grant MacEwan was able to relate to all people, no matter their station in life. His kindness, generosity, modesty and legendary thriftiness left lasting impressions on the province. His devotion to agriculture and history made him a remarkable combination of what great men are: a man of his time, yet deeply rooted in the past.

Grant MacEwan will be honoured by a state funeral on Tuesday. His leadership, vision, character and presence will be missed in Alberta and Canada. His example, however, will live on in the lives of the countless people he touched in his very meaningful life.

Hon. Douglas Roche: Honourable senators, I also rise to pay tribute to the Honourable Grant MacEwan. To reflect on the life of Grant MacEwan almost takes your breath away. He was a giant of a man. He was a professor, a writer, an historian, a conservationist, an agricultural specialist, a former mayor of Calgary, Alberta's lieutenant-governor, a philanthropist and an author of some 55 books.

It is hard to speak of Grant MacEwan without breaking out all of the superlatives.

• (2100)

I associate Grant MacEwan mostly with Grant MacEwan Community College in Edmonton, which carries his name and to which he came every year from Calgary, by bus, staying at the YMCA. So modest and humble was this great Canadian figure. He energized and inspired students with just his presence. To hear him speak was a thrill.

Although tributes to Grant MacEwan are pouring in and will culminate in a state funeral tomorrow, I believe the finest tribute came from his granddaughter, Fiona Foran, who said of her grandfather, "He was a person of the people."

Hon. Nicholas W. Taylor: Honourable senators, I, too, wish to say a word about J.W. Grant MacEwan. He was my predecessor for some years as Liberal leader in the Province of Alberta. In the early 1950s, when I first took an interest in politics, I worked on Grant's campaign. He was a great environmentalist, with an agricultural background. He was not a religious man, but he found a god in the birds, animals and flowers. His oneness with the environment appealed to me very strongly and is one of the reasons I joined the Liberal Party and stayed with it throughout the years. We always had a close friendship.

Grant MacEwan was six feet four inches tall, with a stride to match. When you talked with Grant, you had to have stamina because he was always going somewhere. You had to dogtrot alongside of him or you would lose the conversation.

As Senator Roche mentioned, Grant knew how to look after a nickel, not only his own but those of taxpayers. Whether he was mayor of Calgary or lieutenant-governor, he wanted to ensure that every penny went as far as possible.

Due to an inherited condition, I began using a hearing aid 30 or 40 years ago, at the same time as Grant MacEwan did. I recall discussing with him the use of batteries in our hearing aids. He told me that one battery had already lasted him two months, I believe. I asked how that could be. He said that as long as you keep your hair short, everyone can see your hearing aid and they yell at you. That way, you do not need to turn it on.

There is no use trying to gild the lily about Grant MacEwan, talking only about his achievements. I should like to tell some stories about his more human side.

In the late 1930s or early 1940s, Mr. Aberhart and Mr. Manning, Sr. of the Social Credit Party, the forerunner of our present Canadian Alliance Party, were very upset with the lieutenant-governor of the day who would not approve a bill, so they cut the heat off in government house and forced the lieutenant-governor to move out. They then auctioned off all the furniture for very little. Thereafter, lieutenant-governors, who were usually people of some substance, looked after their own living expenses when they relocated to Edmonton.

Grant was appointed lieutenant-governor in 1965 when Mr. Lougheed first became premier. Having no budget did not bother Grant; he rented a very modest home just north of the legislature, which is not the highest rent district of Edmonton by any means.

As premiers are wont to do from time to time, Mr. Lougheed had to call on the lieutenant-governor to get him to sign something. He called Grant around lunchtime to see whether he could come over, and Grant said, "Sure, come on over." I happened to be visiting at the time as well.

Grant had moved up from Calgary and wanted to save expenses. The premier must have been suspicious of such a modest looking bungalow. He came in to find that the only furniture in the place was one mattress in the corner of the living room and two apples boxes. Grant, a vegetarian, was cooking his soup on a Bunsen burner in the middle of the floor. The new premier of a province that was going to take over the world had to sit on one apple box while Grant sat on the other. I had to stand.

It was not 48 hours before Premier Lougheed had bought a nice home in a high rent district for the lieutenant-governor to live in.

I tell that story only to warn that the Governor General may expect to be thrown out, with furniture auctioned off, if descendants of that group come into power.

Hon. Joyce Fairbairn: Honourable senators, I, too, should like to say a few words of praise and adulation in remembrance of the late Grant MacEwan. Being a young country, Canada may not have as many heroes as other much older nations.

Grant MacEwan was born just before the Province of Alberta was created. He was a child of the Northwest Territories. He has done all the things and more that senators speaking before me have told of. In addition, he was a very special person over many decades to children in Alberta. He was a man full of joy, kindness and wit, and he never stopped learning. He conveyed that to the very end.

Also, regardless of the toll taken by the passing years, Grant MacEwan never wanted to be left out of the action. The last time I saw him was about three years ago at a pancake breakfast on the morning of the Calgary Stampede parade. He was out at the crack of dawn to participate in a great Canadian pastime.

Grant was a tremendous gentleman. His work in terms of writing and his heritage in terms of the college in Edmonton will always be remembered. Most of all, he will be remembered as a pioneer, a man of the people, and a man who very deeply loved his city of Calgary, his province of Alberta and his country of Canada.

Hon. Tommy Banks: Honourable senators, I wish to associate myself with the comments of previous senators in respect of Dr. Grant MacEwan, who was not merely an accessible person in all of his various careers but who actually reached out to the people and became, as Senator Roche has said, a man of the people in every conceivable way.

As we speak, thousands of Albertans are filing past the catafalque in the rotunda of the Alberta legislature, expressing their regret at his passing and celebrating his life. As senators have mentioned, there will be a state funeral tomorrow, to which it will be my duty and pleasure to attend. I believe that Senator Taylor will also be there. We will mark the passing of a great Canadian.

• (2100)

ROUTINE PROCEEDINGS

BILL TO GIVE EFFECT TO THE REQUIREMENT FOR CLARITY AS SET OUT IN THE OPINION OF THE SUPREME COURT OF CANADA IN THE QUEBEC SUCCESSION REFERENCE

REPORT OF SPECIAL COMMITTEE

Hon. Joan Fraser, Chair of the Special Senate Committee on Bill C-20, presented the following report:

Monday, June 19, 2000

The Special Senate Committee on Bill C-20 has the honour to present its

FIRST REPORT

Your Committee, to which was referred Bill C-20, An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference, has, in obedience to the Order of Reference of Thursday, May 18, 2000, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN FRASER
Chair

Some Hon. Senators: Hear, hear!

Some Hon. Senators: Shame!

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Some Hon. Senators: Never!

Hon. J. Bernard Boudreau (Leader of the Government): At the next sitting of the Senate.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: On division!

Motion agreed to, on division, and bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

REPORT OF JUDICIAL COMPENSATION AND BENEFITS COMMISSION

NOTICE OF MOTION TO REFER TO THE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Tuesday, June 20, I shall move:

That the Report of the Judicial Compensation and Benefits Commission, dated May 31, 2000, tabled in the Senate on June 15, 2000, be referred to the Standing Senate Committee on Legal and Constitutional Affairs, pursuant to subsection 26(6.1) of the Judges Act.

APPROPRIATION BILL NO. 2, 2000-01

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-42, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-18, to amend the Criminal Code (impaired driving causing death and other matters).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading two days hence.

[English]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Michael Kirby: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit on Tuesday, June 20, 2000, at 5:00 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Nicholas W. Taylor: Honourable senators, on behalf of Honourable Senator Spivak, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have power to sit at 5:00 p.m. on Tuesday, June 20, 2000, for the purpose of hearing witnesses for its study of Bill C-11, to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Hon. J. Michael Forrestall: Honourable senators, I am hard pressed to give leave. It is a dastardly thing being done to my friends.

Senator Taylor: Back to the coal mines!

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

HERITAGE FISHERIES AND OCEANS

REQUEST FOR MORATORIUM ON HERITAGE LIGHTHOUSES
WHILE FISHERIES COMMITTEE REVIEWS BILL S-21

Hon. J. Michael Forrestall: Honourable senators, I have a brief question for the Leader of the Government in the Senate.

As the leader knows, Bill S-21, to protect heritage lighthouses, is enjoying some measure of support. As the summer passes, many of Canada's heritage lighthouses might well be removed from the scene, destroyed, altered, sold and otherwise transferred or disposed of to the detriment of Canadian history, I suggest, with the exception of community trusteeships.

Would the minister undertake to go to his colleagues, the Minister of Canadian Heritage and the Minister of Fisheries and Oceans, and ask that they consider a moratorium with regard to the disposition of Canada's lighthouses and their outlying structures until such time as Bill S-21 has had a chance to be reviewed by the Standing Senate Committee on Fisheries?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I understand that that bill is now before the Fisheries Committee. I will certainly convey that request to both ministers. I will probably have an opportunity to do that as early as tomorrow.

AGRICULTURE AND AGRI-FOOD

NOVA SCOTIA—INFESTATION OF
BROWN SPRUCE LONGHORN BEETLE

Hon. J. Michael Forrestall: Honourable senators, I personally thank the minister for that response. Might I ask, on a slightly different question but also involving the environment, will he be in a position tomorrow to give us a report on the status of the trees in Point Pleasant Park and whether there has been an extended infestation off the peninsula of Halifax and onto the mainland of the province?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I do expect to be able to give a report on that matter to the honourable senator, and to the Senate generally, tomorrow.

[Translation]

FOREIGN AFFAIRS

DIPLOMATIC RELATIONS WITH NORTH KOREA— GOVERNMENT POLICY

Hon. Marcel Prud'homme: Honourable senators, there are some great developments going on internationally. I am referring to North Korea, where it was strictly forbidden to entertain friendly relations with a view to enhancing openness to the world and toward South Korea.

• (2120)

In order to play the role it is proper for us to play, and not to be one of the last countries to enter into diplomatic relations with North Korea, which seems to be wanting to open up more to the world, does the Government of Canada plan, like certain of the European countries, to establish diplomatic relations with North Korea?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, as we speak, I am not aware of any change in the position of the Government of Canada. As the honourable senator correctly points out, quite a remarkable development has occurred with respect to both Koreas, one that might not have been anticipated by much of the world.

I currently do not know the reaction of the government to that recent development, but I will make the inquiries of the minister to determine whether the position of the Government of Canada will change.

Senator Prud'homme: Honourable senators, I must say that some countries in Europe did not wait for the events of last week to establish a diplomatic relationship. Canada, having that kind of reputation, could only be a better player if the government were not to wait for a signal coming from our neighbour but were to exercise leadership.

Would the minister confer with his colleague and give us an answer before the end of this session? Perhaps the Leader of the Government will be able to come back with at least the beginnings of an answer.

Senator Boudreau: Yes, honourable senators, I believe I can give that undertaking, and I expect that I should be able to come back with some sort of answer before we rise for the summer. As well, I will convey the views of the honourable senator.

CHURCH COMMUNITY

INDIAN AFFAIRS—FINANCIAL SUPPORT FOR LAWSUITS BY FORMER STUDENTS OF RESIDENTIAL SCHOOLS— GOVERNMENT POLICY

Hon. Douglas Roche: Honourable senators, can the Leader of the Government in the Senate state that the government will respond favourably to a request for financial help by a number of churches facing hundreds of millions of dollars in legal costs and liability claims? This matter arises from suits launched by former residents of aboriginal residential schools who charge a deprivation of their culture, recognizing that the church schools were, in actuality, implementing government policy of the time. Does the government now recognize that it has a responsibility in this matter, especially since some churches have stated that they are facing bankruptcy over the issue?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am a bit uncertain of the precise question. The Honourable Senator Roche makes reference to some representations or requests that have been made of the government by the churches to cover legal expenses and so on. I am not specifically familiar with those requests.

I know that this is a serious issue that is before the government and before the churches. The churches I am most familiar with, from a personal point of view, would be those in my own province. I am not aware of any such request having gone forth from the Nova Scotian churches, or at least those with which I am most familiar. I will, however, make inquiries as to whether the government has received such requests, the details, and whether the government has formed any response.

Senator Roche: Honourable senators, I thank the minister for that response. I can inform him, however, that this is an extremely grave matter involving at least four national churches that conducted residential schools for a lengthy period of time in Canada's history.

Honourable senators, there are some estimated 5,000 to 7,000 suits now before the courts, and there is a great concern that the victims will be drawn into a lengthy legal process. This raises the question of an alternate dispute resolution process at which the government is looking, a process far superior to litigation. Alternate dispute resolution stands the best chance of providing reconciliation and a healing process that includes, but goes far beyond, monetary compensation.

Will the government take the lead in establishing this alternate dispute resolution process to bring about the dignified resolution of a tragic chapter in Canada's history?

Senator Boudreau: Honourable senators, I believe the alternate dispute resolution option is very interesting to the government. While I cannot make any definitive statements at this point in time, it bears further debate and investigation. One should take a balanced view on this issue because, as the honourable senator points out, the parties may be faced with exhausting huge resources, which will not help the process of reconciliation with the affected individuals and, indeed, the churches. On the one hand, one does not want to see resources used in that manner. The alternate dispute resolution method has proven to be quite effective in other areas and might well prove to be effective in this area. However, I know some churches say that the element of verifiable claim must be involved as well and that any alternate dispute resolution system must be balanced with the need for a particular individual to establish a specific claim. It is a challenging area. I would say simply that the government is looking seriously at that option.

ORDERS OF THE DAY

CANADA TRANSPORTATION ACT

BILL TO AMEND—SECOND READING

Hon. Jack Wiebe moved the second reading of Bill C-34, to amend the Canada Transportation Act.

He said: Honourable senators, I must say that even at this late hour it gives me a feeling of excitement to have the opportunity to bring to your attention an important piece of legislation known as Bill C-34 — excitement because of the tremendous potential this bill will have for agriculture and for our rural way of life throughout the West and all of Canada.

Honourable senators, the amendments contained in this bill are crafted to respond directly to key problems that exist in the grain sector.

• (2130)

However, since Saskatchewan and Alberta became provinces in 1905 and completed this nation from sea to sea, transportation has played a vital role in not only the development of our province but of the West and, indeed, in its survival.

Justice Estey, in his report to the minister, stated:

The sale of grain, oil seeds and related products injects into our national finances about \$12 billion a year. As an example of this industry's national importance, it should be noted that the grain industry pays one-quarter —

Recently that has been about \$1.5 billion annually.

— of all the freight revenue of our principal railways....Another \$300 million is spent to transport grain from the farm to domestic customers. Without this cash

infusion, our national railway system as it now stands would not be viable.

Throughout the three years of the consultation process that led to Bill C-34, the government heard from different and often conflicting interests. The bill was examined in detail in the other place, and the Standing Committee on Transport heard from a wide range of interests. In all, about 30 organizations were heard in the other place: the Canadian Wheat Board, railways and shipper organizations, the provinces, unions and others.

There may be some, as I understand it, who are concerned that the government took too much time to table this legislation. The other side of the coin is that the grain industry, even after two years of study and consultation, remained deadlocked on several key issues. Had there been consensus, I am sure that we would have seen a bill much earlier, but when consensus is absent, government must weigh all of the options carefully. Decisions on a complex matter require additional consultation and, I believe, more open dialogue. I agree with this approach. The government did not rush decisions. It worked through the details until the right balance was found, and one that will benefit all stakeholders.

There are many complicated aspects to Bill C-34, largely because of the complex formulae that are contained therein. Instead of going into these in detail, let me summarize what Bill C-34 is all about.

There are four key issues that I should like to centre on: the revenue cap, branch line abandonment, FAO or the final offer of arbitration, and what I believe to be one of the most important aspects of this legislation, the monitoring system that will be set up.

The first improvement is the revenue cap. The bill introduces an annual limitation on railway grain revenues which gives an additional reduction of \$178 million of these revenues starting on August 1, a direct saving to the grain and oil seed producer.

Western grain rates have been regulated for more than 100 years, first under the Crow rates, then under the Western Grain Transportation Act, and currently under the Canada Transportation Act. The current grain provisions provide for a distance-based maximum rates scale that sets limits on what the railroads can charge for moving prairie grain. To get a revenue cap, we start from an effective rate under current law of \$32.92 per tonne. The new revenue cap which is set by Bill C-34 is an average \$27 per tonne, a reduction or a savings of 18 per cent.

Under the revenue cap, railways will have the flexibility to vary individual rates to reflect efficiencies and offer more innovative services. Compliance will be monitored by the Canadian Transportation Agency based on actual grain movements and distances hauled. Railway earnings in excess of the cap will be repaid with a penalty. The revenue cap, I might add, will be adjusted annually to reflect the railway inflation cost starting in 2001-2002.

Additionally, and another key element of this bill, freight rates for single-car movement originating on branch lines will not be allowed to exceed main line freight rates for similar movement by more than 3 per cent.

During the last 10 or 15 years, branch line or rail line abandonment, as it is known out West, has been a tough issue for many people to deal with. In this bill, the notice period required before a railway can take any steps to discontinue a rail line or abandon it has been extended from two months to 12 months. This will give a potential shortline purchaser the opportunity to put together an offer that will include all the factors that are important to its success.

To help streamline the process, the railway's three-year plan will only have to identify lines that they intend to operate and those they plan to discontinue. The railways are no longer required to identify lands they intend to transfer. Commercially negotiated transfers can still take place at any time without restrictions.

This bill is also sensitive to the communities. To help communities retain their grain-dependent lines, Bill C-34 allows a community-based group that feels it is ready to proceed with an offer for a grain-dependent line to trigger an early curtailment of the 12-month notice period. This step, if taken, requires the railway to immediately take steps on its two-month advertising process. Bill C-34 also extends the negotiation period from four to six months and allows any party to request a net salvage value determination by the Canadian Transportation Agency. This can be done at any time during this stage.

These provisions will help to facilitate commercial agreements by giving parties more time to reach an agreement while allowing a key piece of information — net salvage value — to be determined at any time.

Currently, the law requires only that the railway must negotiate in good faith. Bill C-34 will now require that both parties negotiate in good faith. If a party has not negotiated in good faith, the Canadian Transportation Agency may order the railway to enter into a commercially fair and reasonable agreement, or it may allow the railway to end negotiations and continue to abandon the line.

I have been speaking about the government's efforts to facilitate the transfer of branch lines. However, the government's job does not end here. The government also felt the need to protect shippers and shortline operators. This bill will require that when a railway company is transferring only part of a grain-dependent branch line, the remaining portion of that line must be retained for three years unless the minister determines that it is not in the public interest to do so.

Further protection is provided by allowing the Canadian Transportation Agency to grant running rights or to require a railway to add a line to the three-year plan for discontinuance if the railway has not fulfilled its service obligations.

Even with these new provisions, not all grain lines in the West will be retained or will be transferred. Some may be abandoned. Therefore, the bill also requires a railway that abandons a line to make three annual payments of \$10,000 per mile to each of the municipal governments located along that line. For example, if an abandonment involved 35 miles of line in a single rural municipality, the railway payment over three years would be about \$1 million. This assistance puts the benefit directly into the municipalities where the impact of the change is being felt the most.

• (2140)

Another key element of this legislation is the final offer arbitration. On freight rates, if a negotiated agreement is not reached with a railway, the shipper can initiate the final offer arbitration process. The mutually agreed-upon arbitrator reviews the final offers of the two parties and chooses one of the two. The Canadian Transport Agency plays a support role in helping to facilitate the arbitration process and selects an arbitrator if the two parties cannot agree upon one.

The bill also addresses some long-standing complaints that the final offer arbitration process is too long and far too expensive. It has been argued that the process is particularly onerous for the smaller shipper. Concerns also were raised during the grain review that the railways have an undue advantage since they can view the shipper's final offer for up to 10 days before submitting their own final offer. Bill C-34 will now provide for a simultaneous exchange of final offers and an option to use a new 30-day simplified arbitration process instead of 60 days. This short process allows the arbitrator the option to make a decision solely on the simultaneous submissions by both parties.

While all four key issues are important, the main area that will determine the future viability of what we are proposing today is the monitoring that will take place. As part of its policy decision on grain handling and transportation, the government will establish a mechanism of continuous monitoring, measuring and reporting, the purpose of which is to permit the government to gather information to monitor the impact that these changes have in the grain transportation and handling system. This will include necessary information from confidential contracts made for the movement of grain.

Bill C-34 will permit the sharing of confidential information about the grain transportation and handling system with a professional private-sector third party who will be responsible for the continuous monitoring of the grain system. The existing confidentiality provisions will apply to the third party, to protect any of the information provided that is confidential. The independent private-sector third party will be required to assess the benefits that derive to the farmers, to assess whether the Canadian Wheat Board marketing mandate is adversely affected, to assess the effect on the grain-handling efficiency, the effect on railway efficiency, the effect on port efficiency for grain, and, above all, to assess the overall performance of the grain handling and transportation system.

This independent private-sector third party will report back to the Minister of Transport, the Minister of Agriculture, and the minister responsible for the Canadian Wheat Board on the impact of these reforms and the overall performance of the reformed grain handling and transportation system. In addition, this bill calls on the Minister of Transport to table in Parliament each year a report on the monitoring of the grain transportation and handling system. This report is to be submitted no later than January 31, which is six months after the end of each crop year.

Let me say in conclusion that we have before us a good bill, a bill that does the right things to bring about a better future in grain transportation and handling. The bill certainly does a number of right things for individual grain farmers. It provides an opportunity for this industry to move forward, by working together to establish new commercial relations and to demonstrate that all parties are ready to work both at creating new savings in the system and at sharing them fairly with all producers involved. This bill presents a opportunity for farmers, the Canadian Wheat Board, the grain companies, and the railroads to work together to regain the cooperation and the trust that has been lost amongst all stakeholders during the last number of years.

Honourable senators, I ask you to allow this opportunity to come about, and I urge you to support Bill C-34.

Hon. Leonard J. Gustafson: Honourable senators, my observations on this bill are not quite as glowing as Senator Wiebe's.

Senator Taylor: Oh, come on!

Senator Gustafson: I suppose that does not come as a surprise. However, on the other hand, farmers would not be too pleased with me if we decided that we should turn down \$178 million.

Senator Robichaud: You are between a rock and a hard place!

Senator Gustafson: That brings me to the whole question of why this is dumped in our laps at the last minute. If the Senate is to have opportunity to do the job that we should do in this Senate, it is time that the House of Commons gave some consideration to an important part of the Parliament of Canada. That is the first point I want to make, but I shall not enlarge on it because I have a number of things to say.

Senator Kinsella: Say it again. They did not get it over there.

Senator Prud'homme: Hear, hear!

Senator Gustafson: I wish to speak about the process and about what is happening in agriculture. Why did we need it?

I go back to the time of Crow debate, when I, as one of the Conservatives, was opposed to removing the Crow. We sat the longest sitting in the House of Commons on the Crow debate, outside of the sailor debate that was held in 1918. We sat there until three o'clock in the morning. When the Crow was gone,

freight rates increased to the point where it takes about one third of your grain to get your grain to port. That was a back-breaker for the farmers in Western Canada, because we are land-locked. We have to ship 1,300 or 1,500 miles to Vancouver or go out through Thunder Bay — and there are problems associated with Thunder Bay because the big boats cannot come into there. The issue of grain transportation is very important to farmers vis-à-vis their ability to sustain themselves and be profitable. The Crow rate was one part of that.

Another point of contention is the change in the railroad system. I will give you some idea of what is happening out in the prairies. We are building terminals. I phoned the Saskatchewan Wheat Pool today, and they told me that, at one point in time, they had 1,200 elevators — and this is just the Saskatchewan Wheat Pool. Now, however, they are down to about 300 elevators. It is amazing. The same is true of Pioneer, of the United Grain Growers and other companies.

Here is what is happening. Louis Dreyfus Canada Limited is building terminals. It is an international grain company. ConAgra is building terminals in Saskatchewan, Alberta and Manitoba. United Grain Growers is 48 per cent owned by ADM, Arthur Daniel Midland. These are big companies. Pioneer Grain, Cargill, AgPro. They are all building terminals. There is a major change taking place in the prairies. These rail lines are going to go; in fact, I say they are already gone.

During the 14 years that I was a member of Parliament, I saved a rail line that I probably should not have, and Otto Lang bawled me out severely on the airplane for going to work and saving that railroad. I think that era is over. Quite frankly, I think the Saskatchewan Wheat Pool took the right approach by saying that the shortline operations might be a tool to the change that is coming in transportation. Many of those rail lines will go, and they are gone. Quite frankly, if the railroad companies cannot keep the railroads going, and have not been able to, I do not know how a few farmers will do it. It is a great challenge.

The other issue on grain transportation is trucking. Do you know that there are municipalities and there are towns and people right now in Saskatchewan out there trying to fill the holes in the roads themselves.

• (2150)

Trucking has become a major problem. What are the truckers saying? They are saying, "Look, with the increase in fuel costs and energy costs going up the way they are, we have no recourse but to raise our rates." Trucking rates will go through the ceiling if energy costs stay where they are. I talk to farmers who have trucks and who haul generally, and they pull into my yard and say that they cannot haul for the price they have been charging, with fuel costs going up the way they are. I would say that this \$178 million will be eaten up in additional fuel costs that will be forced upon the farmers and the railroads, because they have to buy fuel, too. That money is gone. I am not saying that we should turn that \$178 million down, not at all. However, I say to the Government of Canada: We are facing a serious issue in grain transportation and in agriculture.

Honourable senators, let me say a few words about the roads. There will be \$175 million going to roads over five years. I understand the minister said the other day that they intend to designate the roads. That is a good move. Something must be done with roads. The province of Saskatchewan has, I believe, more roads than the rest of Canada put together. We probably have too many roads. The time has come when we will have to designate some roads and build some better roads to the marketplace. The roads are a serious problem, especially in Saskatchewan and Manitoba. Alberta has had oil money to build roads, and when you drive into Alberta, you notice their roads. I certainly support the move of the government to move ahead on the problem of the roads. It is a good move.

My colleague raised four or five important points, but where does this leave the farmers? The problem the farmers are facing is that they are not getting a proper economic share out of the food chain. I want to give honourable senators some startling figures in that regard.

Out of the equity they have invested in agriculture, farmers receive a 0.7 per cent return on a five-year investment. General Mills has been getting 61.8 per cent return. Kellogg's five-year return out of the food chain has been 41.6 per cent. Safeway has had a 33.8 per cent return out of the food chain. Maple Leaf Foods has had a 4.8 per cent return. The CPR has had a 7 per cent return, which is quite reasonable. If farmers were getting something like a 7 per cent return on equity, we could operate.

Honourable senators, I get a little emotional when I talk about this subject. I saw young farmers this spring working harder than ever to get together enough capital to put in a crop, and they got it in. They are out there now spraying from four o'clock in the morning until late at night to try to raise a crop. Many of them say the same thing: "We will be very fortunate if we get our input costs back." If these numbers are right, that is the truth — they will not get their input costs back. Something must be done.

I do not hear people saying that there should be more return out of the food chain for farmers. I have come to the conclusion that the Americans are right in what they are doing. They have just put an additional \$15 billion into agriculture. I have come to the conclusion that the Europeans are right in what they are doing.

Honourable senators might say: Can Canada do that? I say Canada cannot afford not to help their farmers. In the last seven years, about \$4 billion has been taken out of the agriculture budget. I read today that Paul Martin is talking about an \$8-billion surplus of real cash. What the grain industry needs today is something like \$2 billion of real money. I do not think Canada can afford not to do it.

I do not think we can afford not to do what the United States has done. I live along the border, and I have a good idea of what is going on in the U.S. from talking to the farmers there. In fact, a farmer from North Dakota picked up a load of canola at my farm at eleven o'clock today, and he fills me in from time to time about what is happening in the United States. I think the Americans are doing the right thing, and I think Canada will pay a big price if we do not hear the message that farmers must have some return from the marketplace and from the food chain.

How do we bring this about? I say that all Canadians from all parts of the country have to work together. It is very important.

In his presentation, Senator Wiebe mentioned \$12 billion. The return on trade with the United States has given Canada a surplus of \$36 billion, and quite a bit of that surplus was from agriculture products. We cannot afford not to make the changes.

I want to address a few remarks specifically to the bill. We have dealt with the roads and with the \$178 million. The other issue is producer car costs. I have some concerns about that. A clause in the bill indicates that producer car costs will not rise beyond 3 per cent. Here is the problem. If the railroads do not want to stop at Macoun, Saskatchewan, to pick up 15 cars at what was the pool elevator because they want to pick up 100 cars at the Weyburn grain terminal, what makes anyone think they will stop to pick up one producer car from my neighbour or from myself? It just will not work.

There needs to be some clarification of that issue. If we are to generate savings by having the railroads haul 100 cars and pick them all up in one spot, we must be realistic about the other areas as well.

The same thing is true in terms of rail-line abandonment and starting shortline operations. There is probably a different view in northern Saskatchewan and northern Manitoba than there is right along the border. I recognize that. Within 100 miles of the border, people are saying, "Well, we can truck canola into the U.S. and we can truck other oilseeds and grains that are not under the Canadian Wheat Board into the U.S." That may be true, but, as I said earlier, I think the shortline operation will only be a transition tool.

• (2200)

Honourable senators, if we do not move to a long-term program as a government and as farmers, we will lose a lot in rural Canada. That applies generally, not just to grain transportation; it moves into many other areas. In our committee — and we have an excellent Agriculture Committee — we heard from many witnesses on the crisis. I know personally some of the people who made presentations to the committee and who have gone bankrupt since their appearance before the committee. I know of young farmers who have taken jobs off their farms. I do not like to get personal, but my own son, who is 34 years old, took a job with an oil company and is farming at night, something which is common with our young farmers. They are progressive and hard working people. We need to give consideration to them.

Another matter upon which I want to touch is safety nets. I shall be a little critical of the government here. The government has had seven years to put safety nets in place. At one time, some were removed. Why were they removed? They were removed to balance the budget. The country was in some financial trouble. It was important that the agriculture community carry its load, and it did. However, we now need to give some serious consideration to safety nets. That will not happen unless the government is willing to support crop insurance programs and other such measures, until we get through this difficult period of low commodity prices.

The whole problem with agriculture is low commodity prices. I do not buy the argument that if we could only get the Americans off subsidies all would be well. That will not happen. Mark that down and remember that I said it in this place, honourable senators. It will not happen. We have been waiting for it to happen for 20 years, and it has not happened. It would be great if it did, but I do not believe it will.

We must support this bill because the farmers need the help that it offers. I do not think it goes far enough. I think it is just a step, a beginning, in the right direction. I hope that all senators here will lend their voice to persuade the Government of Canada, and say, "Do not let agriculture down." It is very important to Canada and to every citizen of this country.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Wiebe, bill referred to the Standing Senate Committee on Agriculture and Forestry.

AGRICULTURE AND FORESTRY

MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Motions:

Hon. Joyce Fairbairn: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Agriculture and Forestry have power to sit at 3:30 p.m. tomorrow, Tuesday, June 20, 2000, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Noël Kinsella (Deputy Leader of the Opposition): Honourable senators, it is my understanding this motion is being proposed in order that the committee hear the minister. Might I ask the honourable senator if that is correct?

Senator Fairbairn: Yes, honourable senators, we want to get right into our hearings. We will be hearing first from the Minister of Transport, Mr. David Collenette, followed by the Minister of Natural Resources and Minister responsible for the Canadian Wheat Board, Mr. Ralph Goodale.

The Hon. the Speaker *pro tempore*: It is your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

PROCEEDS OF CRIME (MONEY LAUNDERING) BILL

THIRD READING—DEBATE ADJOURNED

Hon. Richard H. Kroft moved the third reading of Bill C-22, to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence.

He said: Honourable senators, I spoke at some length on second reading of this bill and will, therefore, keep my remarks this evening as brief as possible.

This bill strengthens the existing Proceeds of Crime (money laundering) Act by adding new measures to improve the detection and deterrence of money laundering in Canada. Passage of this bill will not only assist Canadian law enforcement in its fight against organized crime and money laundering, but will allow Canada to be an equal participant in international efforts to combat these serious problems.

While Canada has had the building blocks of its anti-money laundering program in place for some time, the measures contained in Bill C-22 will bring Canada into line with international anti-money laundering standards around the world.

In summary, Bill C-22 provides for mandatory reporting of suspicious and prescribed transactions; reporting of large cross-border movements of currency; and the establishment of an independent anti-money laundering agency that will receive these reports and other information.

In implementing mandatory reporting of suspicious transactions, which I point out is a cornerstone of anti-money laundering systems around the world, Canada will, with the passage of this bill, join the other 26 members of the Financial Action Task Force that have put this measure into place. When international comparisons are made, however, the legislation being debated today is distinguished by the strength and extent of the privacy protections it contains.

I have referred briefly to the fact that this legislation will address the needs of law enforcement while at the same time providing considerable privacy protections. I am pleased to add that the committee devoted considerable time and energy during the course of its study of Bill C-22 to ensuring that a proper balance was struck in the legislation between these two important objectives. Honourable senators, I believe that such a balance has, indeed, been achieved.

I should like to take a moment to outline some of the privacy protections contained in Bill C-22. In the first place, reports mandated by the bill will be sent to the new centre for analysis and not directly to the police. The centre will be an independent body operating at arm's length from law enforcement and other agencies entitled to receive information under the bill. I wish to make it clear that the centre cannot disclose just any information to authorities. The centre can disclose only limited key identifying information, such as the name of the client, the account number, the amount involved and other details of the transaction. Information as to why a particular transaction is suspected of being linked to money laundering cannot be released. Only if the centre, on the basis of its own analysis, has reasonable grounds to suspect that certain information would be relevant to both a money laundering investigation or prosecution and a tax evasion offence can it disclose the information to revenue authorities.

If the police want additional information, they will have to obtain a court order specifying what information or documents they want. I should point out that the centre will not be subject to subpoenas except for money laundering investigations and prosecutions.

Honourable senators, it is important to understand that these safeguards are backed up by criminal penalties for any unauthorized use or disclosure of personal information under the centre's control. In addition, the centre will be subject to the federal Privacy Act and its protections, which means that its operations will come under the watchful eye of the Privacy Commissioner. It also means that individuals have rights under the Privacy Act with respect to the information the centre has about them.

• (2210)

Honourable senators, I have said that the committee devoted much attention and effort to assuring that a balance was struck in the bill between the necessary and legitimate law enforcement requirements of the bill and the need to protect the personal rights of Canadians. This was a preoccupation of every member of our committee, and I wish to thank all honourable senators for their cooperation.

As a result of our efforts, we gained the agreement of the Secretary of State for International Financial Institutions, the Honourable Jim Peterson, that certain changes should be made to enhance individual protection in some areas. We received from the minister a detailed letter dealing with four specific areas that

set out the actual language for amendments the government agreed should be made. This letter, which contains an undertaking to introduce those amendments as soon as possible in the fall, forms part of our report.

In addition, the report contains three other amendments that the committee unanimously recommends the government consider while making the agreed-to changes.

With today's globalized financial markets and open borders, criminals have the opportunity to launder billions of dollars in illegal profits. The bill before us targets the financial rewards of this criminal activity by creating a balanced and effective reporting regime. It also protects the integrity of our financial system and enables Canada to meet its international obligations while at the same time protecting individual privacy.

With the passage of Bill C-22, we will now have an effective anti-money laundering scheme in place to help ensure that Canada is an equal participant in the international fight against money laundering.

Honourable senators, I strongly believe that the Senate, drawing on the commitment of all sides, has done excellent work on this bill and has served Canadians well. I urge you to join me in supporting it.

Hon. John Lynch-Staunton (Leader of the Opposition):

Honourable senators, I should like to ask the honourable senator a question. I am intrigued by the report of the committee, as it recommends three specific amendments, which, I gather, were supported unanimously by the committee. The minister, in his letter, seems to concur. Why did the committee not attach the amendments to the bill in order that we might pass them here and have them ready for the House when it returns in September?

It is all very well for the minister to say, "I will do my best in the fall," but he is at the mercy of the House leader and this matter may not be the priority of his House leader when the House returns.

Senator Kroft: The unanimous acceptance and judgment of the committee was that the international urgency for the completion of this legislation was such that the procedure we followed was acceptable. That was the unanimous concurrence of the committee.

Senator Lynch-Staunton: My question is not whether the procedure was acceptable. Why were these amendments not included in your report to this chamber so that we could improve the bill ourselves and then send it to the House for them to ratify in the fall?

These improvements, from my reading, will take much longer to achieve, since the House will have to entertain them in the fall when they return, alongside other legislation, and I fear this may not be one of their priorities. The amendments will take much longer to become law than if you had included the amendments with the bill when you reported to this chamber.

Senator Kroft: As I pointed out, Canada was the last country to have joined into this legislation. The judgment of the government, to which the committee members concurred, was that any further delay would be unreasonable. Thus, the passage of the bill now, in view of completing our obligations and having them fall into place over the coming months was seen as, on balance, the appropriate way to deal with this. That was especially so when coupled with the commitment not to review the bill but to have the specifically worded commitments that have been included in the report.

Senator Lynch-Staunton: I will not prolong this, except to say that honourable senators are being asked to pass legislation that committee members know is incomplete.

On motion of Senator Kinsella, for Senator Tkachuk, debate adjourned.

BUDGET IMPLEMENTATION BILL, 2000

THIRD READING

Hon. Dan Hays (Deputy Leader of the Government) moved the third reading of Bill C-32, to implement certain provisions of the budget tabled in Parliament on February 28, 2000.

Motion agreed to and bill read third time and passed.

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

Hon. Consiglio Di Nino: Honourable senators, I know I share with all of you a great pride in being a citizen of what we all agree is the greatest country in the world. As we begin a new century together, indeed a new millennium, it is, perhaps, timely that we profit from the occasion offered by this legislation to examine in greater detail what it means to be a Canadian.

Unfortunately, both the scope of this legislation and the government's haste to push it through this place precludes any meaningful discussion of this important issue that we too often take for granted.

What we see before us in this chamber today is not the all-encompassing overhaul of the Citizenship Act that we were promised. On the contrary, what we have here is a hodgepodge of

housekeeping measures. Together they may — and I say “may” — serve to tighten up certain enforcement provisions that may have led to abuse in the past; however, I dare say, the bill does precious little more. Neither the government, the minister nor the spin-doctors can say that they have followed through on their promises of extensive review for Canadian citizenship.

It takes more than patriotic beer commercials and free flags to define Canadians as a people. It takes strong national leadership. It demands a commitment to work together with divergent forces and communities to forge a common identity, based on a desire to be and remain here. It takes a mature worldview, a passion for the future and a solid, heartfelt belief in what we can achieve together as a nation. It is their vision, maturity and passion for Canada that seems to be lacking in this bill.

The member from Wentworth—Burlington in the other place, Mr. Bryden, laments that this bill is what he calls “a lost opportunity.” I share his view. The government could have done so much more.

Honourable senators, it has been almost 50 years since my parents and I came to Canada. We had little we could call our own. We were not alone in this respect. Like many newcomers to Canada and elsewhere, we had a desire to build a new and better life, a Canadian life, and we did so. We have never regretted our decision.

In my conversations with people I meet from other countries, one of the most common things they say to me is this: “Canada is so darned big. It's huge. What holds it together?” I tell them that, from my point of view, at least, it is largely a question of shared values. Canadians believe in the rule of law. We believe in equality of all people. We embrace the notions of freedom of speech and respect for human rights. Above all, we recognize that citizenship brings with it certain rights and responsibilities.

• (2220)

I realize that this might sound a little overstated. After all, if my information is correct, our schools no longer teach civics or citizenship. It is considered too boring and too passé, to which I say, that is too bad.

Nonetheless, I truly believe that in our individual and collective hearts Canadians do share these common values which, in turn, help cement our love for our country. This is why I also believe that the true separation and independence of Quebec will never take place.

Honourable senators, when this legislation was discussed previously as Bill C-63 by our colleagues in the other place, committee members put forth some creative proposals. They were creative in the sense that they sought to engage average Canadians and not just the usual menagerie of witnesses that we often see here. They engaged these Canadians in the process of drawing up the final legislation. Unfortunately, most of those proposals, I am told, fell by the wayside and were not adopted. That, too, is too bad. Some fresh air and fresh ideas might not have been a bad idea. Certainly they could have done no worse than the bureaucrats and backroomers in the PMO.

The government defends what it did by saying that contentious issues needed to be ironed out. According to its own backbench, what happened was little more than "basic cowardice" and a fear of making waves that might have drawn attention to some of the frailties and weaknesses of the bill, which I will get to in a moment.

It is to be hoped that we, and particularly our Liberal colleagues in this place, will be a little more courageous than government backbenchers on the other side. The limited examination afforded this bill, both in committee and in the House, is all the more reason for us to take our time and conduct a thoughtful and reasoned review of this legislation.

Honourable senators, I should like to look briefly at some of the objectives of this bill and the questions left unaddressed by it.

First, I do not disagree with certain of the measures aimed at tightening up specific clauses in order to prevent some individuals from obtaining Canadian citizenship. This is particularly true of those who flaunt our criminal laws or who may pose a threat to Canada's national security. I am surprised, however, with the ambiguity of the language used to achieve this end. It seems to me that this ambiguity is meant to allow a latitude of action by the government that is a shade too broad for comfort. This language could do with a little tightening up, and I trust that it will be examined during committee hearings.

The issue of appeal also requires study. Honourable senators will recall the howls of indignation that emanated from the Liberal Party in the 1980s at any suggestion of removing any layers of appeal with respect to criminality within the immigration or refugee system. Now, in the year 2000, we see a Liberal government blithely removing such appeal provisions and, while they are at it, enhancing revocation procedures and giving significant and special powers to the minister and Governor in Council for granting and removing citizenship.

Honourable senators, I find this last power particularly troubling. It does not seem appropriate, by any stretch of the imagination, that a minister of the Crown should have the arbitrary right to strip someone who has become a Canadian of their citizenship. This is just an invitation to abuse. It is an open door to attack and deport individuals who might fall afoul of the government or overstep the boundaries of the so-called political correctness of the day.

I will give you a personal example, honourable senators. After arriving in this country in 1951, I was honoured to receive my citizenship in 1957. I sat across from an insensitive, racist person who, as I answered questions, told me that I did not have black hair because she did not like the word "black." My citizenship card today says that I have brown hair. Of course, that was when I was a young man and really had black hair. Now I have a little grey intermingled.

Honourable senators, need I fear a knock at my door decades later with an accusation that I lied on my application and the

threat of revocation of my citizenship? It sounds far-fetched, but perhaps.

We have all heard of newcomers, particularly refugees, who arrive with little or no I.D. whose names, during the interview process, are spelled wrong or inadvertently changed. Are they also candidates for removal?

Honourable senators, on another front, by this bill the government is proposing to change the title of citizenship judges to "citizenship commissioner" and, at the same time, to change the role of these people. A citizenship commissioner will be a figurehead who will fulfil the ceremonial role of presiding over swearing-in ceremonies. It seems to me that they will have little or no clear function. Surely this is not right. The committee should ensure that clear lines of responsibility and authority are drawn between the commissioners and the bureaucracy now being charged with performing some of the functions in granting citizenship.

Committee members should also ask how this process will remedy the backlog in the application process. The government neglected to address these important matters in this legislation.

Honourable senators, I welcome the opportunity this legislation affords us to examine the oath of citizenship. We all recognize the importance of introducing an oath that all Canadians believe in and see as a reflection of their commitment to citizenship and commonly held principles and values. At the end of the day, the oath should not be contentious or bureaucratic. It should be a source of pride and achievement in being Canadian with all the rights and responsibilities that accompany such an honour. Surely we can all agree on that.

I do not want to go any further at this time, honourable senators. I will perhaps have further comments to make after the committee has completed its study of this legislation. This is a most important bill, even if the government does not seem to think so. It is to be hoped that here in this chamber and in committee it will be given a full and proper examination without haste, which will allow us to adopt a clear and more meaningful definition of who we are and will make us all, whether born in Canada or not, prouder of our Canadian citizenship.

Hon. Anne C. Cools: Honourable senators, I had not paid much attention to this bill until I began to read it as Senator Di Nino was speaking to it. Many questions sprung to my mind. Therefore, I shall speak to the bill tomorrow, if I may.

On motion of Senator Cools, debate adjourned.

• (2230)

CANADA NATIONAL PARKS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Tommy Banks moved the second reading of Bill C-27, respecting the national parks of Canada.

He said: Honourable senators, the Government of Canada has a proud history of leadership in the protection, conservation and preservation of our natural and cultural heritage. Our national parks are a source of pride and a symbol of national identity to Canadians everywhere.

The Government of Canada, as stewards of our national parks, is responsible for maintaining their ecological integrity and for finding new ways to communicate the significance of our parks to all Canadians.

To do these things, Parks Canada needs updated tools to continue to manage these special places effectively. To give them these tools, Bill C-27 revises existing legislation, which will be consolidated for simplicity and clarity. Substantive changes are proposed in several major areas.

Bill C-27 has five main elements: first, the strengthening of ecological integrity; second, the establishment of new national parks of Canada; third, the limiting of commercial development in park communities; fourth, protecting wildlife as a means of securing ecological integrity; and fifth, a commitment to work with the First Nations.

Ecological integrity has always been an implicit objective of the national parks program. I should like to quote, if I may, from the first National Parks Act, which was adopted in 1930:

The national parks of Canada are hereby dedicated to the people of Canada for their benefit, education and enjoyment, subject to this Act and the regulations, and the parks shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations.

While this dedication clause has remained unchanged in 70 years and is retained in clause 4(1) of this bill, it needs reinforcement. The Minister's Panel on the Ecological Integrity of Canada's National Parks has made it clear that we must "firmly and unequivocally establish ecological integrity as the core of Parks Canada's mandate." The Chair of that panel reiterated that before the Standing Committee on Canadian Heritage in the other place, as did other witnesses such as the Canadian Parks and Wilderness Society and the Canadian Nature Federation.

Bill C-27 achieves these ends by three main means: First, it makes ecological integrity the first priority when considering all aspects of park management — not just park zoning and visitor use but all aspects of park management; second, by including a definition of "ecological integrity" based on that panel's report; and, third, by requiring that park management plans include a long-term ecological vision, a set of ecological integrity objectives and indicators, and provisions for resource protection and restoration, zoning, visitor use, public awareness, and, most important, for performance evaluation.

The new Canada National Parks Act will formally establish seven new parks and add some lands to existing parks.

The bill delegates to the government the authority to establish new parks or to enlarge existing ones. This delegated authority is subject to the disapproval of either House of Parliament. The principle that no new park can be established without the consent of both Houses is preserved. If either house rejects a park proposal, that delegated authority will be inoperative.

Senator Taylor: That is better than Bill C-20.

Senator Banks: A distinct act of Parliament will still be required to remove any lands from any park.

There are seven communities contained in national parks, all in Western Canada — Banff, Lake Louise, Field, Jasper, Waterton Lakes, Waskesiu and Wasagamung. These communities have been the focus of extensive commercial, residential and visitor pressure.

The Banff-Bow Valley study of 1996 made many recommendations to protect the ecological integrity of Banff National Park and to strengthen controls over commercial development and human use in the park.

The proposed legislation takes three main steps to manage commercial development in park communities: First, community plans will be tabled in Parliament; second, the legislation makes provision to set the boundaries of those communities, the boundaries of commercial zones within those communities, and to cap the maximum square footage of commercial development within those communities; and third, once agreements have been reached, those elements of the community plans will be placed in a schedule of the act, by regulation. Once the community plans are established, they can only be changed by an act of Parliament.

The government has responded with considerable flexibility to the concerns raised by community representatives in the parks.

Bill C-27 states that the minister may terminate a lease or licence of occupation. This clause is required to enable the minister to manage leases and licences of occupation; however, concerns were raised that adequate recourse for lessees or licensees was not clear. A clause of Bill C-27 makes it clear that the protections and due process afforded to landowners under the Expropriation Act will be extended to leaseholders in the parks whenever the minister takes or acquires an interest in land in the park, where the holder of the interest does not consent, and where there is no cause for termination.

A new definition of "community plan" serves two purposes: First, it ensures that there will be no confusion between the use of the term "community plan" in this legislation and how that term is used and referred to in Alberta legislation; second, it signals to park-community residents that there is no impediment to them undertaking their own planning for social, educational, health and related needs of the community. The section on public consultation now makes explicit reference to representatives of park communities and requires that the minister consult those communities on land-use planning and development in park communities.

Stronger measures to protect wildlife and other park resources are introduced in Bill C-27, particularly the substantial strengthening of penalties for activities such as poaching and trafficking in protected resources.

The Government of Canada is committed to working with First Nations as set out in the "Gathering Strength" document. Amendments to Bill C-27 accepted by the government responded to a variety of concerns of representatives of the Assembly of First Nations, the Assembly of Manitoba Chiefs, and the Keeseekoowenin Band.

Bill C-27 reflects these responses in a number of ways. First, five national parks are being established through agreements with First Nations — Aulavik, Wapusk, Auyuittuq, Sirmilik and Quttinirpaaq. Provision is made for the use of park lands and the use or removal of plant life or other natural objects by aboriginal peoples for spiritual and traditional ceremonial purposes. Provisions are made in the bill to remove lands from Wood Buffalo, Wapusk, and Riding Mountain National Park to accommodate treaty land entitlement. In all cases, those initiatives result from agreements between the government and the affected aboriginal communities.

The bill incorporates a non-derogation clause with regard to aboriginal and treaty rights. The bill strengthens the commitment to consult with aboriginal organizations and bodies established under land claims agreements on policy, park establishment, management planning, and regulations.

The 1997 Throne Speech committed this government to the expansion of our network of national parks. The Government of Canada established an expert panel to review the state of ecological integrity in Canada's national parks. That panel has now reported. The Minister of Heritage has taken action. The key element of that action is to make ecological integrity central in legislation and in policy.

Bill C-27 delivers on those commitments and helps to secure a legacy to future generations of Canadians.

I commend the attention of all senators and ask the support of all senators for the passage of this bill.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question or two for Senator Banks.

• (2240)

Could the honourable senator explain the principle underlining proposed section 7 of the bill, which, as I read it, provides that the Governor in Council may make certain orders or amendments to Schedule 1 and Schedule 2? We then find what I would

describe as another example of an infringement on the jurisdiction of the Senate occurring in clause 7.(1), where it says:

...the proposed amendment shall be tabled in each House of Parliament, together with a report on the proposed park or park reserve that includes information on consultations undertaken and any agreements reached with respect to its establishment...

Once that happens, an amendment so tabled stands referred to the given standing committee. What is the principle operating here that will cause the bill to supplant the *Rules of the Senate*? Is that being implied by that clause?

Furthermore, when you read clause 7(2), it says that the "committee of each House may, within 30 sitting days after the amendment is tabled, report to the house that it disapproves the amendment..." However, clause 7(3) provides that a proposed amendment to Schedule 1 or Schedule 2 may be made if 31 sitting days have elapsed. In other words, if the Senate does not act within the 30 days, an amendment may be made.

Does this not rule out, for example, the technique of a hoist, which is available under our rules? What is the principle we are dealing with in the bill, a principle that seems to be providing an override of the *Rules of the Senate*?

Senator Banks: I thank the honourable senator for the question. I am sure it is not the intent of the bill to override the prerogatives of the Senate. That is a matter that I hope shall be discussed thoroughly in committee, which is where I hope this bill will go shortly.

On motion of Senator Rossiter, debate adjourned.

WESTERN CANADA TELEPHONE COMPANY

SECOND READING—DEBATE ADJOURNED

Hon. Ross Fitzpatrick moved the second reading of Bill S-26, to repeal An Act to incorporate the Western Canada Telephone Company.

He said: Honourable senators, I am pleased to rise today to begin second reading of Bill S-26. The purpose of this bill is to repeal the act to incorporate the Western Canada Telephone Company, commonly known as the BC Tel Act.

The BC Tel Act was passed by Parliament in 1916 to incorporate the British Columbia Telephone Company when constitutional jurisdiction over telephone companies was uncertain. Local monopoly telephone companies were common. Some of these were owned by provinces, some by municipalities. The BC Tel Act ensured federal jurisdiction over telecommunications and, at the same time, limited the company's ability to compete with provincially owned or municipally owned telephone companies. The government is repealing this legislation because it wants to remove the restriction of BC Tel's ability to compete — restrictions that only BC Tel faces.

Honourable senators, this chamber should also regard this bill as part of the government's broader objective of creating a competitive marketplace framework. Significant changes have occurred in the corporate structure of BC Tel in the past decade. In 1993, it reorganized under a holding company, BC Telecom Inc. Last year, the holding company merged with Telus Corporation, formerly the Alberta Government Telephones, to form BCT. Telus Communication Limited. Last May, the holding company formally changed its name to TELUS Corporation. Even the telephone operating company, known for years as BC Tel, changed its name in October 1999 to TELUS Communications B.C. Inc.

Honourable senators, the BC Tel Act is now an outdated piece of legislation. It imposes restrictions on BC Tel that are not imposed on any other carrier. One such restriction is contained in section 17 of the BC Tel Act. The company must first obtain the consent of the Lieutenant Governor in Council of the respective province if it wishes to build or maintain facilities in Alberta, Saskatchewan or Manitoba. The restriction was put in place in an era of provincial monopolies. It was meant to confine BC Tel to British Columbia. However, this is now contrary to the legislative policy of promoting competition because it inhibits BC Tel's ability to compete on the Prairies while no other company is subject to this restriction.

This restriction also applies to the City of Prince Rupert, B.C. In order for BC Tel to build or maintain facilities in Prince Rupert it must first obtain the consent of the municipality of Prince Rupert, which, since 1910, has been served by a municipally owned telephone company, CityTel.

I should point out that the CRTC has not yet permitted local competition in Prince Rupert. If local competition is permitted there in the future, subsection 43(2) of the Telecommunications Act would require all carriers, including BC Tel, to obtain municipal consent before constructing transmission lines in public places. Therefore, the restriction in the BC Tel Act is redundant.

Honourable senators, all four western provincial governments have been consulted and none has any difficulty with repealing this act.

Another type of restriction is contained in sections 8, 9 and 9(a) of the BC Tel Act. It requires BC Tel to obtain the consent of the CRTC prior to disposal or sale of the business, or the acquisition of shares or property of another telecommunications company. No other telephone company faces this restriction.

The CRTC has been consulted and has advised that the repeal of the BC Tel Act would not give rise to any regulatory concerns, and BC Tel will continue to be regulated by the CRTC.

The Telecommunications Act will continue to apply to BC Tel, as well as to other carriers. Section 6 of the Telecommunications Act provides that the Telecommunications Act prevails over any

special act where there is a conflict. Thus, a special act is not required to regulate BC Tel's business.

The Competition Act would apply to the company with respect to mergers and acquisitions, to the same extent that it currently applies to other telecommunications common carriers regulated under the Telecommunications Act.

Honourable senators, the remaining provisions of the BC Tel Act are either spent or relate to corporate governance of BC Tel. The BC Tel Act incorporated BC Tel, but the company was continued under the Canada Business Corporations Act in 1993. Therefore, it would continue to be incorporated should the BC Tel Act be repealed.

Subsection 7(4) of the BC Tel Act creates a statutory priority for bonds, debentures, debenture stock, and other securities issued by the company as against the company's properties and assets. Section 11 provides a similar statutory priority to certain trustees. To protect shareholders and third parties from potential loss of value, the bill to repeal the act contains a transition provision to preserve the statutory priority until the instruments are terminated in accordance with their terms.

The repeal of the BC Tel Act is a simple matter of legislative housekeeping but it will also promote competition. In that regard, I would remind honourable senators that when Parliament passed the Telecommunications Act in 1993 the objective was clear — foster competition in telecommunications. The CRTC permitted competition in the long-distance market in 1992 and in local services in 1998.

Competition is now an important characteristic of the telecommunications environment in Canada. The policy has been remarkably successful. Where once both long-distance and local calling were the preserve of monopolies, there is now aggressive competition.

• (2250)

Long distance prices have dropped by 50 per cent or more. New competing technologies, such as wireless, continue to drive prices down. The OECD has determined that Canadian prices of its standard baskets of residential and business services are the lowest in the G7.

The telecom services industries will invest an estimated \$6.8 billion for the year 2000. Much of this investment is being driven by new entrants such as AT&T, Call Net, 360 Networks, Microcell and Clearnet. In the meantime, both Telus and Bell Canada Enterprises are moving fast to build networks across Canada.

The telephone industry in Canada has been a national success story. In fact, with some 98.4 per cent of Canadian households subscribing to basic telephone service, we have one of the world's highest penetration rates. In the knowledge-based global economy, where the information and the communications technologies are the infrastructure of the new age, this is a tremendous advantage for us as a nation.

Honourable senators, this is the environment in which BC Tel needs the freedom and flexibility to respond to market opportunities and compete vigorously.

The bill before us is a simple piece of housekeeping, but that housekeeping will also provide for growth and competition that will lead to the opportunity for Canadians to receive better communication services. I urge my colleagues to support this bill.

On motion of Senator Kinsella, for Senator St. Germain, debate adjourned.

PARLIAMENT OF CANADA ACT MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Dan Hays (Deputy Leader of the Government) moved the second reading of Bill C-37, to amend the Parliament of Canada Act and the Members of Parliament Retiring Allowances Act.

He said: Honourable senators, I rise to speak to Bill C-37, which I introduced last week. Before talking about the details of the bill, I will make a few general comments.

First, I wish to emphasize that this bill does not change any of our parliamentary compensation policies. What it does is to make a technical correction to the severance allowance that already exists for members of the other place and to provide that all members in the other place join the members of Parliament pension plan.

Senator Forrestall: Let the weasels back in!

Senator Hays: This bill was developed by all parties in the other place and received broad support in the other place. As I understand it, the motivation for introducing this bill was not by the government but, rather, reflects an agreement among all parties in the other place. As well, Bill C-37 does not make any changes to the basic policies of our parliamentary compensation system.

Let me comment, honourable senators, on the matter of severance. Bill C-37 corrects an unintended and unfair provision of the legislation that was passed in 1995 which ended double-dipping by members of the other place but which had the unfortunate effect of making severance unavailable for many of the members of the other place.

The 1995 legislation, unfortunately, created two groups of MPs. One group of MPs under 55, elected before July 1995, are not allowed to collect a severance because they receive a small, immediate MP's pension for service rendered before July 1995. Over 100 members are disadvantaged because of this anomaly.

A second group of MPs under 55, elected after July 1995, would receive severance equal to six months' salary. Some examples may help honourable senators understand the situation.

An MP under 55 who was elected in 1993 would receive an annual pension of about \$5,600 and no severance. This pension would increase to about \$21,000 when the MP reaches 55.

An MP under 55 who was elected in the 1997 election and retires after six years would receive a severance allowance equal to six months' salary, or about \$34,000, and at age 55 would receive a full pension of approximately \$17,000.

The bill we are addressing today would correct this anomaly by providing a reasonable severance allowance for all members of Parliament. MPs under age 55 who are elected before July 1995 and are in the MPs' pension plan would receive a six-month severance allowance when they cease to hold office minus any immediate annual pension the MP would receive. The allowance and the pension are not combined. One is subtracted from the other. The existing provision for MPs under age 55, elected after July 1995, would continue to be that they receive the six-month severance allowance. In all cases, the severance allowance would not exceed a maximum of six months' salary, which represents approximately \$34,000.

Providing all members with a severance allowance is also a question of fairness. Like anyone suddenly or unexpectedly out of work, it has long been accepted that members of the other place need a transition period.

According to the Blais commission report on MPs' compensation, most people in the MPs' salary range take about six months to find work. However, members of the other place, contrary to private citizens, do not have access to employment insurance benefits to ensure a period of transition. This is one of the reasons it is appropriate to provide every member of the other place with a severance of six months' salary minus any immediately payable pension to enable them to take a new direction and provide for their families should they lose an election.

As the Blais commission put it, although members of Parliament should not expect special financial advantages as a result of service in Parliament, it is reasonable that service to the country should not leave them appreciably worse off than they were before being elected. The severance allowance for the other place is reasonable and comparable to severance allowances provided to provincial parliamentarians and to allowances in the private sector and in the public service.

For example, the Provinces of Ontario, Alberta and Saskatchewan provide members of their legislatures with a transition allowance equal to one-month's indemnity for each year of service. Similarly, in the private sector, the general rule in case of involuntary departure is a severance equivalent to one month for each year of service. In the Canadian public service, the rule is one-week's salary per year of service up to a maximum of 28 weeks, or roughly six months.

People who have families and earn regular salaries and people who come from all walks of life should not be discouraged from seeking the opportunity to participate in the political process without putting the financial security of one's family at risk when one ceases to hold office. Bill C-37 responds to this concern by providing all members of the other place under 55, and not only those elected after 1995, with a six-month severance allowance when they cease to hold office.

I referred in my introductory comments to the fact that this bill provides for all members to become members of the pension plan. The 1995 changes to the parliamentary pension plan allowed members to opt out of the pension plan. Bill C-37 provides that all members will be in the plan as of the date of coming into force of the bill.

The bill also gives to members an opportunity to buy back their past years of service on the same terms as other members who wish to buy back their previous service.

In conclusion, honourable senators, this bill does not create new or additional benefits for members of Parliament. It simply remedies an anomaly in the 1995 pension legislation with respect to severance. The bill also creates parity among members by providing that all members are in the pension plan. These changes received broad support in the other place.

For all these reasons, I would ask all honourable senators to support the bill.

• (2300)

Hon. Nicholas W. Taylor: Honourable senators, I wish to ask a question. Many of the politicians from out west were elected on the idea that members of Parliament, both in the Senate and in the House of Commons, were at the trough, so to speak, and doing very well. Cross their heart and hope to die, they would not be contaminated by pockets that ever touched a pension. We are being asked to reverse this order to allow some people back into the pension plan.

It bothers me that people can campaign to serve in the House of Commons and blacken the reputation of politicians in general, and then they turn around a few years later and get what they said was so wrong with Parliament in the first place — a pension. It is about time we politicians started to take action to show that those who are elected on the idea of running down the political process and those who serve in the political process cannot turn around suddenly and cry *mea culpa*. I know that we are supposed to forgive and forget, but these people made a deliberate attempt to turn down the credibility of parliamentarians, and now they turn around and want their pensions.

Senator Di Nino: They were elected because of it.

Senator Taylor: Is there any guarantee in the future that we will not continue to turn the other cheek for everyone who wants to run for Parliament and is elected saying they will not take this or that, they will not move into this house or do that, and then turns around and does the exact opposite? We then tell them that all is forgiven. We say that there is more joy in heaven for one

sinner who repents, so there is more joy in heaven for one MP who repents, and we give them their pensions. I am bothered by that and wonder if there is anything in this bill to stop a repetition of that behaviour.

Senator Hays: I thank Senator Taylor for that speech, or was it a question? I will make two comments on his comment.

The other place is subject to accountability at election time, and I am sure that all members of the other place know and appreciate that this matter may be relevant at election time. I would estimate that elections occur roughly every four years in a majority government, and we are getting close to that time. I think that is the best assurance of the integrity of people in terms of the questions that the honourable senator raises.

I would make another comment. The honourable senator described the conduct of certain members of the other place in this respect. It is important to remember that virtually all of them have families, and those who have not had a provision for pensions or for the severance adjustment allowances provided for in this legislation have really put their families at some disadvantage. For that reason, it may well be that, on reflection, there is a different attitude now and there will be a different attitude in the future about pensions and severances than there was at that time of possible political opportunism.

I repeat again, honourable senators, that the time of accountability will be the next election. I think that is the best way of assuring that people are held to a standard to which they should be held, and the people of Canada will look after that.

Hon. Peter A. Stollery: I, too, have a question, honourable senators. I am sympathetic to the members of Parliament and their pension problems, but they seem to have been the authors of their own misfortune. At the time they opted out, I thought they were being unwise. I can understand that they would like to correct the situation, having had a few years to find out the difficulties that they have caused themselves.

The other problem that crosses my mind is the fact that there have been schemes over the years. The one that I recall the best was in 1982 or 1981 or 1980, when we came up with a system of indexing parliamentary pay. That system was done away with. My point is that many errors have been made over the years. Is any consideration being given to giving the tax-free expense allowance of senators parity with that of members of the House of Commons.

Senator Hays: Senator Stollery, I regret to observe that there is no such provision in this bill. As to whether thought had been given to it or is being given to it, I do not know. Time will tell.

Hon. J. Michael Forrestall: Can the Deputy Leader of the Government shed some light on the process of buying back in for those who had opted out and now will opt back into the pension plan? I guess they are back in unless they opt out again. How will they buy back? Is there a formula? Is there interest on the money? Are we prepared to lend them the money? How will that work?

Senator DeWare: You almost choked on that one.

Senator Hays: I have been briefed on the bill, honourable senators. However, I should start my response to the honourable senator's question by observing that the best way to get a correct answer to that question is to ask the minister or officials in committee.

Having qualified what I have to say with that remark, I understand that the members will buy back in accordance with a formula designed by an actuary and which, I believe, will use the rate of interest that the Government of Canada pays on certain types of its debt instruments. Which instruments, I am not sure, but it would be an interest rate determined in that way.

Senator Taylor: Might I be allowed another question along the lines of Senator Stollery's inquiry? Would this be the act we would amend if the Senate wanted the expense allowance for senators to be equal to the expense allowance for members of the House of Commons?

Senator Hays: Honourable senators, this is an act to amend the Parliament of Canada Act and the Members of Parliament Retiring Allowances Act.

I will give the same qualification to the Honourable Senator Taylor as I gave to the Honourable Senator Forrestall in obtaining an answer to the question. It is my assumption that the Parliament of Canada Act would perhaps be one of the relevant pieces of legislation. As for other acts of Parliament, I am not sure. I am sorry that I cannot give the honourable senator a more precise answer. I am sure that in committee the honourable senator will have an opportunity to obtain the correct answer.

On motion of Senator Kinsella, for Senator Lynch-Staunton, debate adjourned.

● (2310)

PRIVILEGES, STANDING RULES AND ORDERS

FIFTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Committee on Privileges, Standing Rules and Orders (question of privilege of Honourable Senator Kinsella) presented in the Senate on April 13, 2000.—(*Honourable Senator Austin, P.C.*).

Hon. Jack Austin moved the adoption of the report.

He said: Honourable senators, I have moved concurrence in the fifth report of the Standing Committee on Privileges, Standing Rules and Orders, which was tabled on Thursday,

April 13, 2000. The report deals with the question of privilege that was raised by the Honourable Senator Kinsella regarding a witness who had appeared before the Standing Senate Committee on Agriculture and Forestry.

Allegations that a witness before a Senate committee has been harassed or interfered with are extremely serious and must be investigated carefully. The protections of parliamentary privilege that apply to the Senate and all senators also extend to those persons, including witnesses, who participate in our proceedings. In 1993, the House of Commons Standing Committee on House Management reaffirmed the principles of parliamentary privilege and the extension of privilege to witnesses. Its report stated:

The protection of witnesses is a fundamental aspect of the privilege that extends to parliamentary proceedings and those persons who participate in them. It is well established in the Parliament of Canada, as in the British Parliament, that witnesses before committees share the same privileges of freedom of speech as do Members....The protection of witnesses extends to threats made against them or intimidation with respect to their presentations before any parliamentary committees.

As honourable senators will recall, in 1998 and in 1999, the Standing Senate Committee on Agriculture and Forestry was engaged in a special study of recombinant bovine growth hormone and its effect on the human and animal health safety aspects. This study received considerable media attention and was closely monitored by various interest groups and interested individuals as well as the government. It is this sort of study that Senate committees undertake so well.

In the course of its hearings, the Agriculture Committee requested that certain scientists from Health Canada appear. It appears that there were extensive discussions with the scientists, their union representatives and the department regarding their appearance, as they were concerned about the possible repercussions on their careers. The minister and the department gave assurances, and the scientists appeared on October 22, 1998. Following the tabling of the committee's interim report in March 1999, several of the scientists appeared again before the committee.

One of the scientists who appeared was Dr. Shiv Chopra, who is a drug evaluator with the Human Safety Division, Bureau of Veterinary Drugs, Health Protection Branch of Health Canada. He had been involved with the application for approval of rBST and the gaps analysis report that was subsequently prepared. He appeared before the Agriculture Committee on three separate occasions: October 22, 1998; April 26, 1999; and May 3, 1999.

On August 15, 1999, Senator Kinsella co-chaired a senators' round table on citizens' participation in civic affairs, at which time he was approached by Dr. Chopra. Dr. Chopra said he believed that a five-day suspension without pay that he had received was a direct consequence of his testimony before the Senate Agriculture Committee.

Senator Kinsella immediately wrote to the deputy minister of the department and advised Senator Carstairs of the case. When the Senate resumed sitting in September 1999, Senator Kinsella raised a question of privilege. He was supported by several other senators, and on September 9, 1999, the Speaker found that a *prima facie* case existed and the matter was referred to the Standing Committee on Privileges, Standing Rules and Orders for review.

Before the matter could be taken up, however, the first session of the 36th Parliament was prorogued on September 18, 1999. On October 13, 1999, however, Senator Kinsella again raised the question of privilege and the matter was again referred to the Standing Committee on Privileges, Standing Rules and Orders.

As many senators will know, the Rules Committee has been extremely busy since the beginning of this session. The question of privilege raised by Senator Kinsella, however, was a major concern. We held a series of meetings and heard Senator Kinsella, Dr. Chopra, six other Health Canada scientists, and the deputy minister, Dr. David Dodge. Dr. Chopra and the other scientists provided extensive briefs and documentation to the committee, all of which has been carefully reviewed.

This was not an easy case. There was no direct evidence that the five-day suspension of Dr. Chopra was related in any way to his appearances before the Senate Agriculture Committee. During the appearances of each of the six scientists, I specifically asked if he or she had any direct evidence of any disciplinary action against Dr. Chopra as a result of his appearances before the Senate Agriculture Committee on rBST. Each of the witnesses, and Dr. Chopra, replied that they had not seen or heard anything directly linking the five-day suspension to the Senate appearances.

The stated reason for Dr. Chopra's suspension was his participation in a conference on employment equity sponsored by the Department of Canadian Heritage on March 26, 1999. In particular, Dr. Chopra is alleged to have made certain comments about another employee in a public forum, and this was the ground for imposing discipline on him. The issue before the committee, however, was not whether the discipline was warranted or whether it was excessive. Rather, the issue was whether the suspension was given wholly or in part as a result of Dr. Chopra's Senate committee appearances, as a means to intimidate or harass him. In other words, was he being punished because he appeared before the Senate Agriculture Committee or because of his testimony there? Unless we could draw that link, the question of the suspension was not one that the committee was involved with. This is, and will be, the subject of a grievance and a hearing before the Public Service Staff Relations Board.

Dr. Chopra and the other Health Canada scientists had no doubts in their own minds that the suspension and the Senate Agriculture Committee appearances were related. They asked us to draw certain inferences or conclusions from the surrounding circumstances and events, and from other things that had

happened within the Bureau of Veterinary Drugs.

Members of the committee were disturbed and even shocked at the testimony that was presented regarding the working environment in the Bureau of Veterinary Drugs. On the basis of what the committee heard, the situation appeared to be unacceptable. I caution, however, that the committee did not undertake a full or complete investigation of the employment practices at Health Canada, and we had no mandate to do so. We did not hear from all of the stakeholders and there is undoubtedly other evidence that was not presented to us. Nonetheless, what we did hear concerned us. That is why, in our report, we included the following passage 17:

The evidence clearly establishes that the working environment in the Bureau of Veterinary Drugs at Health Canada is highly unsatisfactory. There is a great deal of suspicion and lack of trust, and, therefore, allegations of this nature cannot be entirely discounted. Your Committee finds this situation deplorable, and urges the Minister of Health and the Deputy Minister to take steps to remedy it, as a priority and a matter of urgency.

In cases of this type, where there is a long and complex background and history with many interrelated issues, where there is unpleasantness and matters have become very personal, it is difficult to separate out particular aspects. As we said in our report:

Your Committee's task is complicated by the poisoned environment that exists in the Bureau of Veterinary Drugs.

On one level, all of these things are connected together. The difficulty that our committee encountered was that we needed more. In order to make a finding that parliamentary privilege had been breached or that a contempt of Parliament had been committed, we needed clear evidence that the suspension of Dr. Chopra was related to his appearances before the Senate Agriculture Committee. Yet no one was able to provide direct or hard evidence to establish the necessary link. In the result, the committee was very careful not to say allegations of intimidating or tampering with the witness were groundless. We were not prepared to exonerate completely the individuals who are complained of. However, by the same token, we were not able to find that breach of privilege or contempt of Parliament had occurred.

● (2320)

While determined to do everything necessary to uphold the privileges of the Senate and of senators, it was incumbent upon us to proceed with caution. In the report, we concluded as follows:

After a careful review of all the evidence, your Committee is unable to conclude that a contempt of Parliament has occurred. Your Committee is not satisfied to the degree that it must be in order to make such a finding. The standard of proof required in order to determine that a contempt of Parliament has occurred has not been met, but this is not to say that there is no evidence. Members of your Committee consider that the allegations have not been adequately proven.

We were also mindful of the fact that there are other legal proceedings, including grievances and a case in the Federal Court of Canada, that involve related or, in some cases, identical facts. The committee's mandate was restricted to the issue of parliamentary privilege; the other issues must be dealt with elsewhere.

On behalf of the committee, I should like to thank Senator Kinsella for raising this matter in the Senate, and all of the witnesses who appeared before us. I would also like to express my appreciation to all senators who sat on the committee during our consideration of this important and complicated question.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to move the adjournment of the debate. In so doing, I wish to state that I appreciate the assiduous, careful and cautious work accomplished by the committee under the chairmanship of Senator Austin, and I shall be commenting further on the substance of the report.

On motion of Senator Kinsella, debate adjourned.

PRIVILEGES, STANDING RULES AND ORDERS

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Leave having been given to proceed to Motion No. 75:

Hon. Jack Austin, pursuant to notice of June 15, 2000, moved:

That the Standing Committee on Privileges, Standing Rules and Orders have power to sit from 6:00 p.m. on Tuesday, June 20, 2000, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I ask for consent of the Senate to pass over all remaining items on the Orders of the Day and Notice Paper and proceed now to the adjournment motion, leaving all matters standing in their place.

The Hon. the Speaker: Honourable Senator Hays has proposed that all —

Hon. Marcel Prud'homme: Honourable senators, I wish to ask a question of the Honourable Senator Hays. Does that mean that Order No. 19 on page 11 will remain as it is on the Order Paper?

Senator Hays: That is what I asked for.

The Hon. the Speaker: Is it agreed, honourable senator, that all other items stand as they are on the Order Paper?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2:00 p.m.

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(HANSARD)

Tuesday, June 20, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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THE SENATE

Tuesday, June 20, 2000

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

NEW SENATORS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Betty Kennedy, O.C.
Raymond C. Setlakwe

INTRODUCTION

The Hon. the Speaker having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writ of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. Betty Kennedy, O.C., of Milton, Ontario, introduced between Hon. J. Bernard Boudreau, P.C., and Hon. Landon Pearson.

Hon. Raymond C. Setlakwe, of Thetford Mines, Quebec, introduced between Hon. J. Bernard Boudreau, P.C., and Hon. Lise Bacon.

The Hon. the Speaker informed the Senate that the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

• (1410)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, it is my pleasure to extend a warm welcome to our two new colleagues, Senator Betty Kennedy and Senator Raymond Setlakwe. Both new senators have contributed significantly to their communities, to their regions and their country.

Today, it is my great honour to welcome to the Senate an Officer of the Order of Canada, Senator Betty Kennedy. Senator Kennedy is a distinguished broadcaster, journalist and author. I have no doubt that her experience on the award winning

Front Page Challenge will assist her during her time with us in the Senate. Perhaps it might even help me with Question Period.

Her background in journalism will serve her well in this place, allowing her to quickly adjust to her new surroundings. We can expect her to become an active contributor to our work in the Senate.

In addition to her many achievements, Senator Kennedy has given freely of her time to many charitable and voluntary organizations. These include honorary national chair of the Canadian Cancer Society, honorary chair of the annual fundraising luncheon of the Canadian Save the Children Foundation, and an ambassador for the St. John Ambulance millennium celebrations. She was the first non-medical member of the Complaints Committee of the Ontario College of Physicians and Surgeons, and a member of the college's 1990 Task Force on the Relationship Between Physicians and the Pharmaceutical Industry. All of these past experiences will no doubt assist her as she begins with this new challenge.

Senator Kennedy, we congratulate you on your appointment. We offer you all our best wishes as you assume your new responsibilities.

Hon. Senators: Hear, hear!

Senator Boudreau: Honourable senators, Senator Raymond Setlakwe is a successful entrepreneur and lawyer. He is President and CEO of A. Setlakwe Ltd., a retail chain with 17 stores and boutiques throughout Quebec. He is also President and CEO of Saint-Hilaire Inc., an importer of men's and women's ready-to-wear fashions.

Although he is busy, Senator Setlakwe has time to contribute to many voluntary organizations. He is honorary chair of the fundraising campaign of the CÉGEP at Thetford Mines, a member of the Thetford Mines Hospital Foundation, a member of the Bishop's University Foundation and has been involved in the Laval University Foundation fundraising campaigns.

Senator Setlakwe can also count among his many achievements being a director of the Research Fund of the Montreal Heart Institute, a member of the Sherbrooke University Corporation and a member of the Bishop's University Corporation.

Senator Setlakwe, your strong commitment to public service will assist you in our work here in this red chamber. Welcome to the Senate of Canada.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to join with the Leader of the Government in the Senate in welcoming our two new senators. However, I regret that notification of the swearing-in ceremony only reached us in caucus a little over an hour ago. Therefore, it has been impossible to prepare appropriate remarks. Suffice to say that after hearing the resumé of our two new colleagues, there is no doubt that they will bring talents from which we shall all benefit.

[Translation]

Honourable senators, on behalf of all opposition senators, I offer my sincere congratulations on your appointment and wish you good luck in your new responsibilities.

[English]

THE HONOURABLE WILLIAM M. KELLY

TRIBUTES ON RETIREMENT

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, while it is easy to find fault with any prime minister whose term in office is marked by constant controversy, even the most critical and biased observer can find in him or her some positive decisions. What better example of this than the Honourable William Kelly, whose summons to the Senate in 1982 resulted from a flash of genius on the part of Mr. Trudeau. His good judgment has been vindicated ever since.

Only a month from now, Senator Kelly will reach the mandatory retirement age. I wonder if it is wishful thinking that in looking for a replacement, the present prime minister will be inspired by his predecessor.

Among the many characteristics that set Senator Kelly out during the past 18 years, the one that strikes me the most is his lack, or even distaste, for partisanship. He is, and I say this in the most objective sense, of the old school, that diminishing one which believes that sober second thought, harmony, goodwill and collegiality should be the hallmark of this place, something that has not always been true over the last few years.

• (1420)

Bill succeeded Orville Phillips as a PC caucus whip. The contrast in approach could not have been sharper. Orville's was best exemplified by his well-used cat-o'-nine-tails that left many scars, particularly during the GST debate.

Bill, on the other hand, believed more in a quiet and courteous approach, which was so successful that on more than one occasion, he did not even show up for the vote that he had whipped for.

Bill's non-partisanship served Senate committees well, particularly National Finance, Energy, Internal Economy and

Banking. He took a special interest in terrorism and in Canadian counterterrorism activities as an active participant and chairman on three special committees addressing the issue, the last being the Special Senate Committee on Security and Intelligence, which reported in January 1999. The government's response last December testifies to the diligence of the committee and, in particular, of its chairman. The government said, in its answer, that the committee report will serve to guide government action aimed at further strengthening Canada's national security measures.

Bill, you have brought to the Senate outstanding experience in private business and in community affairs, which has been of immense benefit to the Senate. We are all most appreciative. I should like to wish you and Betty the very best as you prepare to leave us. You will be sorely missed.

Hon. Senators: Hear, hear!

Hon. B. Alasdair Graham: Honourable senators, I think it is true to say that it is a tough job to begin to list all of Senator Bill Kelly's accomplishments and contributions to his chamber, to his beloved province and, indeed, to his country. As someone who has truly admired and respected Senator Kelly's well-known fair-mindedness, his commitment to principle and his determination to get things done over the years, I find it rather difficult to imagine Senate committees without him.

Senator Lynch-Staunton paid tribute to Senator Kelly's work on committees ranging from National Finance and Energy to National Defence and Internal Economy, and, more recently, to the Standing Committee on Privileges, Standing Rules and Orders and the Subcommittee on Human Resources. When one considers his remarkable life in totality, it becomes clear that for Bill Kelly, to use William Van Horne's famous words, nothing has been too small to know; nothing has been too big to attempt.

Senator Kelly has served as director of the Council on Drug Abuse. He has served as chairman of the Board of Governors at Ryerson Polytechnic University. He was co-chairman of the 1984 task force on Crown corporations. In the business world, he has been director of numerous national and international companies and financial institutions. He has stood as governor of Canada's Sports Hall of Fame and a commander of the Order of St. Lazarus of Jerusalem.

Senator Kelly gained extensive international experience in energy-related consulting services around the world. That international experience was broadened between 1994 and 1997 when he served as rapporteur and delegate of the second committee to the OSCE Parliamentary Assembly in Vienna.

Honourable senators are all aware of Senator Kelly's lifelong interest in the study of terrorism and his dedication to the very critical objective of strengthening the safety and security of Canadians. We all followed the outstanding work that he did as chairman of the Special Senate Committee on Terrorism and the Public Safety.

I think all of us, as a by-product of Senator Kelly's forceful yet always constructive and tightly reasoned analysis, have been prompted to reflect very seriously about the problems of individual nations in dealing with national security in cyberspace, a virtual world where boundaries disappear. As someone who led two committee studies on terrorism in the 1980s, one of which included the still-unsolved bombing of the Air India jet, Senator Kelly has become an experienced voice of reason in an area that most people try not to think about until a serious calamity erupts. His has been a continuing voice, calling for vigilance in the defence of the values and the freedoms Canadians hold dear and yet which Canadians too often take for granted. The message: Be alert, be watchful, because in the era of terrorist incidents, such as the Oklahoma City bombing and the nerve gas attack on the Tokyo subway system, vigilance in the defence of freedom must become a natural reflection in the lives of all of our people.

As I reflected upon Bill's contributions to this area, I thought back to a young lieutenant, William Kelly, of the Second Field Engineer Regiment during World War II. I thought of the wonderful regiment's role as put in the words of the field engineers themselves. Simply stated, the two roles of engineers are to assist friendly troops, to live, move and fight, and to assist in denying the same abilities to the enemy, and to fight as infantry when required.

Senator Kelly, you have spent many years in the service of your country, living up to your regiment's role. You have counselled vigilance in a world where virtual realities have turned traditional concepts of security upside down. Always you have tried to deny the ability to live, move and fight to the enemies of our country and the democratic freedoms and institutions that we as Canadians hold dear.

Honourable senators, I believe all of us, on both sides of this chamber, have been moved by the depth of your commitment in the continuing struggle for what is right.

I think now of an old friend of yours, former premier Bill Davis of Ontario, who once said that to be Canadian is to live in relative calm and with great dignity. As we say goodbye to a very fine senator and friend, I think of words like "calm" and "dignity" and the traditional very fine attributes of a true Canadian gentleman. I think of a quiet dignity and wonderful good humour and fair-mindedness that carried through all of Bill Kelly's time with us.

It was once said that no person was ever honoured for what he received. Honour was always the reward for what he or she gave, so let us add "honour" to the long list, Senator Kelly, because over an action-packed tenure in this chamber, you have given so much, and we shall always be in your debt.

Hon. Lowell Murray: Honourable senators, as has been noted, Senator Kelly, a Progressive Conservative, was appointed to the Senate in 1982 by Prime Minister Trudeau, a Liberal. Thereby hangs quite a tale. Time does not permit me to do full justice to it today, but I shall try to give honourable senators a brief outline of the plot and a sketch of the main characters.

It all started, as many of Mr. Trudeau's initiatives did, with a quite harmless, indeed laudable, constitutional theory. The theory was that the effective functioning of our parliamentary system required not only an upper house, although we should be grateful for such an acknowledgement from the Chrétien government today, but an upper house in which Her Majesty's Loyal Opposition had a critical mass, and I do mean critical. The numbers on the opposition side had been declining for some years. Prime Minister Trudeau undertook to replace any Progressive Conservative who retired with another Progressive Conservative who would be nominated by the Leader of the Opposition in the House of Commons, who, in those days, was a Conservative.

Under this rubric, the opposition ranks were strengthened and the Senate itself was enhanced by the appointments of such distinguished Canadians as the former Nova Scotia premier G.I. Smith and the former Manitoba premier Duff Roblin. The working arrangement was that when a vacancy occurred due to a Tory senator's retirement, the Tory leader would submit a list of names from which the Prime Minister would choose the new senator.

When the time came in 1982 to fill the Ontario vacancy, some of the leading political luminaries in the country became engaged in a process so labyrinthian and Machiavellian that even Mr. Trudeau would have admired it if he were following it, which I very much doubt.

• (1430)

The Right Honourable Joe Clark was involved, of course, and he had his own favourite nominees for the vacancy — Senator Kelly not among them. His chief of staff swung into action on his behalf, interfacing, as they say now, with his counterparts in the Trudeau PMO. The chief of staff was Peter Harder, who has since vanished into the mists of the senior federal bureaucracy.

In Toronto, the fabled Big Blue Machine was activated. Bill Kelly had been a charter member, a close advisor to Premier Davis and, indeed, the chief bag person for the provincial Tories. Their immediate strategic objective was to ensure that Mr. Kelly's name was on the list that Mr. Clark submitted to Prime Minister Trudeau — that is all they asked — and it was strongly implied that the honour of being on the list would be sufficient for a person as modest as Bill Kelly was — then.

This presented no great difficulty for Mr. Clark and his faithful emissary, Mr. Harder. After all, there would be five Tory names on the list, and ample opportunity for Mr. Clark and Mr. Harder to indicate, with a wink and a nudge, to Mr. Trudeau that some candidates were more welcome, if not more worthy, than others. It is, of course, well known, even in Liberal circles, that Mr. Trudeau was not always as sensitive as he should have been to winks and nudges. However, winks and nudges were the specialty of his chief of staff, who was Tom Axworthy. A more winkable and nudgeable operator never graced the PMO — with the possible exception of Jim Coutts, who was his predecessor, mentor and idol.

The federal Tories were serene and confident, not for the first time, that our universe was unfolding as it should. Trudeau and Axworthy would surely not be capable of treachery. Perhaps not, but what about Bill Davis, Ed Stewart, his deputy minister, Norman Atkins, and notably, famously, notoriously, the indefatigable Hugh Segal, now vanished into another mist, the apolitical, non-partisan Institute for Research on Public Policy? Segal went to work. This was in the aftermath of the patriation caper of 1982, and federal Liberals could be forgiven if, in their euphoria, they thought there might be other issues on which they and Queen's Park could make common cause, thereby marginalizing the federal Tories. Hugh Segal was not one to discourage their optimism. He may even have fed it. I have no doubt that Michael Kirby was enlisted, perhaps even Michael Pitfield, maybe even Joyce Fairbairn. This was no mere political cabal; this was a major megaconspiracy of federal-provincial proportions.

So it came to be that on December 23, 1982, just before Christmas, William McDonough Kelly was summoned to the Senate, just a couple of weeks after the aforementioned Pitfield and just a couple of years ahead of the aforementioned Kirby, Fairbairn and Atkins. Axworthy has gone to his reward in Montreal, and of the original co-conspirators, only Segal is left pressing his nose to the senatorial window. Perhaps it is that conspiracies, like revolutions, devour their children. In any case, with Senator Kelly leaving shortly, it is not too late for Prime Minister Chrétien to bring Segal in out of the cold as we approach the eighteenth anniversary of patriation.

By way of postscript, let me say that I do not recall all of the other three or four names on the list that Mr. Clark submitted to Mr. Trudeau. I do remember one of them. It was that of Hal Jackman, Prince Hal, later to be named Lieutenant-Governor of Ontario, and more recently to metamorphose as the Bay Street guru of the egregious Canadian Reform Alliance Party. Think of it, colleagues! Instead of bidding farewell today to our esteemed colleague, Bill Kelly, we might be enduring the pontifications of our first CRAP senator, Senator Hal Jackman, who would today still have another six or seven years in our midst. The thought is enough to inspire me to say thank God for Tom Axworthy and Pierre Trudeau.

Some Hon. Senators: Hear, hear!

Senator Murray: Thank God for Hugh Segal and Bill Davis.

Some Hon. Senators: Hear, hear!

Senator Murray: I shall go so far as to say thank God for Bill Kelly.

Honourable senators, let me say that the process has worked. Parliament has had the services of an excellent senator these past 18 years. I acknowledge that, at times, I found it slightly galling that, having arrived here under such blatantly political auspices, with such a conspicuous political background, he proceeded to lecture us on the virtues of a non-partisan Senate. However, one day, in December 1990, Liberal senators saw him rise in his

place, out of turn, but did not protest, thinking he was about to subject us to another homily on non-partisanship. Imagine their chagrin when it turned out to be a commando-style procedural intervention that succeeded in putting an end to the filibuster and passing the GST bill. This and future generations of bean counters in the Finance Department, led by Paul Martin, will be eternally grateful.

I hasten to add, as Senator Lynch-Staunton has mentioned, that during part of my time as government leader in this place, Bill Kelly served as caucus chairman and chief government whip. I was always grateful that he succumbed to the entreaties of Prime Minister Mulroney, and mine, to take on this thankless task. As we all know, the function of whip is indispensable to our parliamentary system. It requires sound judgment, integrity, loyalty and discretion, qualities that Senator Kelly possesses to a high degree, indeed qualities that he exemplifies. He has been an adornment to the Senate, a valued colleague, and at all times a very good friend, and I am most grateful that we have had the benefit of his skills, his experience and his dedication to what is best for Canada.

Hon. Senators: Hear, hear!

Hon. Colin Kenny: Honourable senators, I also rise to pay tribute to Senator Kelly. We served together in the Senate for 15 years, through rough times and smooth. We served together on Internal Economy, the Personnel Subcommittee, the Security Subcommittee and the Audit Subcommittee. I served on two of his three Terrorism and Public Safety Committees. Working with Bill, we discovered he loathed partisanship — surprising for a Tory. Bill was always thorough, logical, hard-working and capable.

On a personal basis, occasionally we disagreed, but far more often we were of the same mind. Bill has always had a sense of humour and, more important, a sense of perspective. The best way to characterize Bill is as a true gentleman. The words one would associate with him are integrity, courtesy, honour and courage.

Bill, you are a good friend and we are going to miss you.

Hon. Senators: Hear, hear!

Hon. Marcel Prud'homme: Honourable senators, Senator Graham has described Senator Kelly as "A true Canadian gentleman." I also want to join with what has been said by Senator Murray and others.

On a personal note, the first time I really spoke to Senator Kelly was when I arrived in the Senate. As you may well remember, I arrived under a terrible cloud given to me by one party that was not, of course, the party of Senator Kelly. He was at that time the chief government whip, and it was at the end of a tenure of office of a government and he had to find me accommodation. Of course, the other whip was not too happy to see my entrance in the Senate as an independent senator. I tested right away who is who that day when I was appointed.

I must say, for the benefit of the new senators, yes, I have been 40 years a Liberal, was appointed by a Conservative prime minister and sit as an independent. However, if Mr. Trudeau was daring by appointing a Conservative to the Senate, the Right Honourable Prime Minister Mulroney must have had something else in mind when he chose a Liberal to sit as an independent, because I am sure I was the first one who succeeded in sitting as an independent. Many others tried before, but they had to sit as Conservatives; otherwise, they would not have been appointed to the Senate. This is a small part of history.

• (1440)

I was well received and well treated. He treated me as he treated everyone. On the very last day he said, "Marcel, I cannot find accommodation for you. Every door is closed. Only a little office at the entrance is empty. It is sometimes used by the guards. At one time, former senator van Roggen used that place." I did not say a word. I was afraid to lose it if I showed too much enthusiasm. I knew that room inside out. For years and years, I sat down at night with Senator van Roggen, who was then chairman of the Foreign Affairs Committee while I was chairman of the Foreign Affairs Committee of the House of Commons. We dealt together. We organized meetings with Gorbachev, and so on. I knew that room well, and I knew that it was a prime place, even though my staff had to be located on the sixth floor. I wish to thank him for that.

The second time I got to know him is when I had the great honour — and, do not get excited about this — of seconding the motion that created the famous special committee on terrorism and security. I was the one who seconded the motion and attended the meetings, although as a non-member because the issue regarding independent senators had still not been resolved. We want to work, but that issue has not yet been resolved. Senator Kelly gave me good advice. However, the authorities of the day have not yet found a solution to the question of independent senators being members of committees.

Having said that, I was very honoured to sit with Senator Kelly even in the *in camera* meetings. I am not sure that some of the greatest people in security told us the whole the truth. As we were unable to prove that they were lying to our faces, we could do nothing. However, I am positive that we were lied to by some of the highest people in security services.

Senator Kelly did a fabulous job. I would say to the new senators, especially, that these reports of that committee which was chaired by Senator Kelly should be read again with an eye for the year 2001. You will then understand what Canada and the world will have to face.

I was happy and honoured to meet with Senator Kelly. I totally endorse what Senator Graham has said. This shows that some senators do listen to what is being said by their colleagues and do not only make speeches. I listened attentively to what Senator Graham said.

I have met a true Canadian gentleman in the person of Senator Kelly. I salute him. I hope to see him as long as he so wishes.

Hon. Jeremiah S. Grafstein: Honourable senators, the lamented looming retirement of the Honourable William Kelly will leave the Senate leaner, lighter, looser, and less learned. Bill, as we have heard, was a life-long Conservative. Before Bill was called to the Senate by the Right Honourable Pierre Elliott Trudeau, he was already a legend in my home province of Ontario. He was a legend in Ontario politics.

Bill was a key engineer who helped to construct, motivate and run the Big Blue Machine that was so successful for many decades in Ontario. If the truth is now to be known — since we are now making *mea culpas* — the truth is that the little red machine in Ontario was modelled on the Big Blue Machine, with not inconsiderable success.

Bill was always a graceful and honourable opponent. He was tough, but fair. He was a strong, silent and influential advisor to successive provincial governments and premiers — governments and premiers who always clung or hung on to the middle road in Ontario. The fight in Ontario has always been for the middle ground and, dare I say, the progressive liberal middle ground. Bill was always a leader in moderation in all things, including in politics and in the Senate.

In his duties here, Senator Kelly approached his work with precision, passion and principle. Above all, he was a man of clear common sense. His work on committees, especially the committees dealing with intelligence, security and terrorism — that malignant disease of the last part of this century — is well known to all. He believed that Parliament had to play a more important and crucial role in its oversight on matters of national interest such as intelligence and security. He felt — and I believe he is right — that Parliament had not properly provided that oversight to which the public is entitled.

What is less known about Bill is his work on behalf of Canada overseas, particularly at the OSCE, where 55 countries, including Canada and the U.S., are voting members. As a rapporteur at that very distinguished body, he was responsible for drafting multifaceted, complex policy papers and then dealing with amendments that flowed in from 55 countries. Again, in Europe, Bill led the way with concision, skill and diplomacy. He navigated the ever difficult and complex shoals of international clashes. In the process, honourable senators, he raised respect for Canada across the face of Europe.

Bill, the Senate will miss you and your astute talents and capabilities. You helped to reconstruct and burnish the quiet reputation of the Senate, true to its mandate, as a chamber of sober second thought. Bill, you leave the Senate with a repository of distinguished work. Canada remains indebted to you for your outstanding qualities of passion and reason, all in the service of the Canada you served so well in war and peace. You will remain in my mind always as an officer and a gentleman. Bill, may the wind always be at your back. God speed!

[Translation]

Hon. Roch Bolduc: Honourable senators, I have known Senator Kelly since I first came to the Senate 12 years ago. Senator Kelly is a businessman of experience, and a person who expresses his ideas on public policy with conviction and whose sense of public interest will accept no compromise.

At his invitation, I enjoyed the most interesting experience of sitting on the board of a major company. He was chairman of the board and as such showed his ability to ask pertinent questions of the senior executives, whether these related to production problems, marketing, administration or investments.

Senator Kelly is a man who triggers heated discussions and who possesses a keen sense of efficiency when it comes to the decision-making process. This disciplined and pragmatic man counts among his accomplishments here the attentive eye he has kept on Canada's defence and security activities. He does so not only in Canada but also in such international forums as the Atlantic Council.

Although Senator Kelly is leaving us, I know he is not taking retirement. I wish him and his wife many happy days to come.

Hon. Pierre De Bané: Honourable senators, I should like to add my tributes to those that have already been paid to Senator Kelly. An engineer by profession, Senator Kelly was extremely active in the energy field in Canada, Europe, Asia, the Far East and Oceania.

He then developed an interest in major political issues, European security in particular. Remarkably, even before coming to this institution, he was also extremely active within various charitable organizations.

What I have been most impressed by in Senator Kelly is the fact that he has always assumed his duties in the Senate in an extremely high-minded manner, putting the public interest well above political considerations, although remaining an important figure in the Progressive Conservative Party.

[English]

• (1450)

I want to pay tribute to you, Senator Kelly, because you are one of the people who, when you join an institution, are not honoured; rather it is the institution that is honoured by your joining. Thank you very much.

Hon. Senators: Hear, hear!

Hon. Peter A. Stollery: Honourable senators, I did not know Senator Kelly before he came here, though we both come from the same part of Ontario. What a decent and honourable senator he has been. Unlike some senators, he has participated in the

activities of the Senate and has made his mark on public business in Canada. That is not something I would say about everyone. He is a man who will be missed by the Senate. I am not suggesting that other people are not also honourable senators, but Senator Kelly has come here and has made a tremendous contribution to Canadian public life, and I, for one, will miss him.

Hon. Senators: Hear, hear!

Hon. Joyce Fairbairn: Honourable senators, this is a sad day for me. I can honestly say that Senator Bill Kelly has been one of my finest friends and colleagues in the Senate since I came here 16 years ago.

I listened carefully to Senator Murray. Over the years, my friend Mr. Trudeau has often been accused of being Machiavellian; however, I must say that Senator Murray's story indicates far more devious and complex machinations from the other side of the issue of the appointment of Senator Kelly than I am sure the former prime minister could ever have thought.

Apart from his politics, I always liked Bill Davis. I was confident that, at the time, when having the opportunity to put in a word, he would come up with the name of a pretty good fellow. I did not know Senator Kelly at the time. I was a little curious when I heard that Mr. Davis was dispatching his premier bag person to fill this role. I expected perhaps a portly chap in pin-striped trousers, puffing away on a cigar. We did get the cigar-puffing, regrettably, but there he was, trim and gracious, full of warmth and good humour — up to a point, of course. Senator Murray, again, has brought up a rather painful memory of the day that Senator Kelly rather forcefully snookered our side during the GST debate. After my original outrage, I never really held that against Bill personally. I thought he had had an unfortunate lapse, probably brought on by the long hours and pressures of the GST debate.

Senator Kelly has not only made a contribution of work to this place, but his personality and his character have, time and time again, shone through in our debates and indeed even in some of our disagreements. Many of us will leave our position in the Senate with old Hansards full of speeches, but Bill Kelly can walk out of this place having done something tremendously substantial. That is the work that he did on not one, not two, but three committees that focused on an issue that, in the beginning, was deemed too hot to touch. He had one heck of a time putting together the committee that first studied the issue of terrorism and public safety.

I listened to Senator Kenny saying what a congenial group this committee was. I guess it was, but I do remember the battles of two titans, between Senator Kenny and Bill Kelly, and thinking that I would never again want to be on a committee with the two of them. Nonetheless, Senator Kelly led that committee with the military precision and efficiency learned in his past. He did it meticulously. He did it carefully. The topic was very difficult and controversial.

I shall always remember, Bill, one of the conclusions that came out of your work, a conclusion that had an impact all across this country. That is the emphasis you placed on police forces working together, working together in times of crisis, working together to share training opportunities and information and expertise. I believe that, in this country, and certainly in your province of Ontario, there has already been evidence that the spotlight that you put on this issue has had a favourable effect, which will likely only grow as the years go on.

You have left us a legacy. We shall miss your presence here; I shall miss your presence here. I simply wish you all of the happiness you can find. I shall not even use the word "retirement" because I do not think you ever will retire. I believe you will go on to make public contributions and to support the principles by which you have always abided in public life. We are all the better for having had you here. Thank you.

Hon. William M. Kelly: Honourable senators, this has been a rather difficult afternoon for me. I can only say that I wish you had said nice things like that when I was alive. On a serious note, however, thank you very much for your remarks.

I want to correct one thing, though, in Senator Murray's dissertation. I want to explain to Senator Fairbairn, too, who was shocked at my fall from grace in apparently engineering the termination of this endless GST debate. I think Senator Fairbairn's first sense was that I had been corrupted by Senator Murray, because a decent chap like myself would never have done a thing like that, and that is perfectly true. It was all Murray's idea. It was too late by the time I realized I had been led down the path.

Honourable senators, I shall not go on endlessly. I thank you again. It has been an honour for me to serve with a group like this; it really has. The talent that sits in this chamber is beyond anything I have been associated with since I left school.

If I have one concern it is a concern that is shared by other honourable senators, and that is the general attitude held by people toward this chamber. I do not believe the Jack Aubrys of the world, and their comments do not bother me in the least, nor should they bother you. You do wonderful, wonderful work here. You always have. Instead of struggling away to change the small minds that yip every now and again, continue to do what you are doing. That is all that is necessary. You are just great. I thank you so much for the time we have spent together.

Hon. Senators: Hear, hear!

[Translation]

• (1500)

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I call your attention to the presence in our gallery of a distinguished visitor, His Beatitude Ignace Moussa I Daoud, Patriarch of Antioch, and spiritual leader of the world's Catholic Syrians.

Your Beatitude, on behalf of all senators, I welcome you to the Senate of Canada and wish you a pleasant stay in our country.

Hon. Senators: Hear, hear!

[English]

SENATORS' STATEMENTS

AIR CANADA

COST OF TRANSFERRING AIR MILES

Hon. Erminie J. Cohen: Honourable senators, these days, whenever we enter this chamber, someone has another frustrating Air Canada story to relate. A letter to the editor in today's *Globe and Mail* has prompted me to add to the running list of Air Canada horror stories.

When Peter Dawson's father died recently, he discovered that Air Canada Aeroplan points are inheritable as property. However, there was, of course, a catch. To transfer the points to the widow's account, Air Canada imposed a whopping \$107 service charge, including GST. As Mr. Dawson of Annapolis Royal in Nova Scotia pointed out, an electronic transaction of this type is done by our banks for generally a few dollars.

Is Air Canada's monopoly so chintzy that it allows the organization to reward their loyal customers by gouging their heirs when they die? Surely, as Mr. Dawson stated, these people will be the first to fly with new competitors when a range of choices become available, and, honourable senators, so will we.

[Translation]

OFFICIAL LANGUAGE MINORITY COMMUNITIES

Hon. Jean-Robert Gauthier: Honourable senators, the Commissioner of Official Languages, Dr. Dyane Adam, had stern words regarding the official languages in Canada. According to Dr. Adam, the government is not meeting its obligations toward its linguistic minorities:

Neither the federal government, nor the provinces, nor the leaders of Canadian society have properly fulfilled their respective responsibilities toward the official language minority communities.

The commissioner made these remarks at an annual meeting before a panel of the Fédération des communautés francophones et acadienne du Canada on the report by Senator Jean-Maurice Simard entitled "Bridging the Gap: From Oblivion to the Rule of Law."

Senator Simard's report, coupled with the remarks by the Commissioner of Official Languages, Dr. Dyane Adam, are serious cause for concern. We do not take disturbing remarks lightly. In my view, we must take action to refocus our efforts on this important issue.

In an article that appeared on June 18, Montreal's *La Presse* reported:

Dr. Adam launched into a vitriolic, all-out attack on Ottawa, which she accused of having failed to meet its constitutional obligations toward official language minorities.

The enlightened leadership that we so sorely need is lacking. Dr. Adams also said that:

...too concerned with putting its fiscal house in order, the federal government has neglected its commitment to linguistic minorities and fallen into "silence and indifference."

In order to bring linguistic duality back to the forefront, we need a new and effective communications strategy. The hour is late. Dr. Adam said:

Linguistic divides are widening and the official language minority communities, despite all their efforts, are constantly losing ground.

That is what we call "assimilation."

As senators, we can take a serious and constructive step. At the present time, matters relating to official languages are examined by the Standing Joint Committee on Official Languages. I must admit that the committee has done excellent work since its inception in 1979, but there always comes a time when change becomes necessary, and it is time to modernize the structures in place and to make some changes to them.

For some time now, the committee has become extremely partisan because of the presence of people who do not have the interests of their minority language community at heart, who are not familiar with its needs.

It is time the committee was divided in two, since the Senate's mandate is to represent the regions and minorities, and it would

therefore be capable of striking a serious committee with a progressive agenda, with the support of the government, the Commissioner of Official Languages and representatives of linguistic minority committees and associations.

We shall have to redirect our resources and develop modern federal policies that are adapted to the changes in Canadian society. The senators on this standing senate committee could work without partisan bias on the advancement of language matters. I have already proposed that such a committee be struck, independent of House of Commons partisan politics. I trust that, in the fall, we shall be able to roll up our sleeves and meet the challenge, making language matters again a priority.

In closing, I should like to quote something the Commissioner of Official Languages said this past Saturday:

In addition, the key players, the federal government and the communities first of all, must agree on a strategic plan and a set of tactical measures that include specific deadlines, performance indicators, and control and evaluation mechanisms.

As Senator Simard has said, time is rushing by. We must act quickly. The vitality of our linguistic communities depends upon it.

ONTARIO

SUDBURY—CONTRIBUTION OF FRANCOPHONE COMMUNITY

Hon. Marie-P. Poulin: Honourable senators, today, June 20, 2000, the Carrefour francophone de Sudbury is celebrating its 50th anniversary. This centre for the young and the not-so-young offers something for everyone. It brings together people who want to work, discuss, learn and laugh in French.

As you know, honourable senators, a successful project starts with a good idea. The idea of founding a youth centre together with a summer camp on Île-aux-chênes came from the late Father Albert Régimbald, a Jesuit. With you, I pay tribute to him and thank the boards of directors and the many volunteers who made it possible for the Carrefour to play a key role in the lives of French-speaking children in Northern Ontario.

[English]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I proceed to the next item on the Orders of the Day, I should like to introduce to you the pages from the House of Commons. The fact that the House is not sitting gives us a bonus in that instead of the usual two pages, we are fortunate to have three pages with us today.

[Translation]

First, I should like to introduce Annick Beauséjour. Annick comes from Ville-Marie in Quebec. She is enrolled in the Faculty of Arts at the University of Ottawa. Her specialization is translation.

[English]

Philippe Delparte is from Calgary. Philippe is in the Administration Faculty at the University of Ottawa, and his specialization is accounting.

[Translation]

Annie Galameau is studying psychology at the University of Ottawa's Faculty of Social Sciences. Annie comes from Cornwall, in Ontario.

On behalf of all senators, I welcome the House of Commons pages to the Senate. We hope that your week among us will prove interesting and instructive.

[English]

THE ESTIMATES, 2000-01

SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED

Hon. Lowell Murray: Honourable senators, I have the honour to present the eighth report of the Standing Senate Committee on National Finance concerning the Main Estimates 2000-2001.

(For text of report, see today's Journals of the Senate, Appendix, p. 750.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Later]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY HEALTH CARE SERVICES AVAILABLE TO VETERANS OF WAR AND PEACEKEEPING MISSIONS

Leave having been given to revert to Notices of Motion:

Hon. Michael A. Meighen: Honourable senators, I give notice that on Thursday next, June 22, 2000, I shall move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and

report on the health care provided to veterans of war and of peacekeeping missions; the implementation of the recommendations made in its previous reports on such matters; and the terms of service, post-discharge benefits and health care of members of the regular and reserve forces as well as members of the RCMP and of civilians who have served in close support of uniformed peacekeepers;

That the Committee report no later than June 30, 2001; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

• (1510)

QUESTION PERIOD

AGRICULTURE AND AGRI-FOOD

NOVA SCOTIA—INFESTATION OF BROWN SPRUCE LONGHORN BEETLE

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. I have discussed this matter with him. Prior to his response, I wonder if the minister might include as well any thoughts he has on a moratorium of the lighthouse matter, but of course more important is the pressing situation with respect to the brown spruce longhorn beetle. We understand now that there are probably as many as seven — hopefully not more — sightings of this beetle outside or off the peninsula of Halifax.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, with respect to the lighthouse issue that Senator Forrestall raised yesterday, I indicated that I would speak to the ministers directly involved. I have not had an opportunity to do that yet, but I shall do so and return with a response for the senator before we break for the summer.

With respect to the question concerning the brown spruce longhorn beetle, I have a fairly detailed response. As the honourable senator has indicated, we have had an opportunity to discuss what is a very serious problem in Halifax. This problem most directly affected Point Pleasant Park initially, a park that has long been a favourite spot for all residents of that metropolitan area and beyond. However, it is also a problem that has consequences, at least potentially, for an area far broader.

Honourable senators, I should like to take a couple of moments to discuss this matter. I also intend to provide a written report to Senator Forrestall, Senator Oliver and to any other senators who might be interested.

In giving an update, I can inform honourable senators that the federal, provincial and municipal governments have established a task force. The three levels of government are working closely with the task force to share information, discuss the significance of the brown spruce longhorn beetle, pest management options and communications to the public. Members of the task force include the Canadian Food Inspection Agency, Natural Resources Canada, the Canadian Forest Service, the Nova Scotia Department of Natural Resources, the Halifax Regional Municipality, the Point Pleasant Park Advisory Committee, the Maritime Lumber Bureau, the New Brunswick Department of Natural Resources and Energy, and Dalhousie University. The first meeting of the task force was held on Monday, June 5, 2000, in Halifax. Subcommittees of that task force are currently following up on a five-point action plan, which includes conducting an inventory of the affected trees, determining options for local containment and eradication, discussing options for ecological restoration of Point Pleasant Park, and establishing a communications network.

The subcommittees reported back to the task force at its second meeting on Monday, June 12, 2000, in Halifax. A third meeting of the task force took place on June 19, 2000, to discuss the costs of eradication and the concerns of citizens opposed to the removal of infested trees. As the Honourable Senator Forrestall will know, certain members of the community have raised questions about the most appropriate method of dealing with the potential threat. The next task force meeting is scheduled for June 27, 2000.

As the honourable senator noted, this beetle has been detected at a total of seven locations outside of the Point Pleasant Park geographical area. I believe the most distant location was in the area of the Armdale Rotary, about which the honourable senator would be familiar. This area is approximately three kilometres away from the park site.

On an immediate basis, the Canadian Food Inspection Agency and NRCAN have approved an interim measure to track the movement of the beetle within the park and surrounding areas, and, combined with that, announced the establishment of a bait log program. Starting Monday, June 19, log piles consisting of 100 logs each will be strategically placed through the park in an effort to attract egg-laying female beetles. There will also be five experimental log piles to test the effectiveness of the initiative and new methods of containment and eradication. The hope is to keep the beetles in the park and away from the healthy trees.

This is an interim measure until a task force can make a final decision about the next step in ongoing eradication efforts. The decision has not been made because a number of important details are still under discussion. These include the volume of trees to be cut down, whether or not trees that have not been infested will be cut down as a precautionary measure, concerns about public safety if trees are cut during the peak tourist season, concerns about cutting down trees while the beetles may not be dormant, and so on.

Honourable senators, this issue can have a major impact in the forestry sector all across the country. This is the first infestation in North America of this particular pest. As such, it is not a small matter and it must be dealt with carefully.

Honourable senators, I have asked the parties involved on the federal side, who are among the leaders of this initiative, including the Canadian Food Inspection Agency, if they would arrange a public information format to allow the public to present their views and to be informed in detail of what the federal departments are considering. I am informed that such a format will be set up in the very near future.

Honourable senators, I have communicated the honourable senator's ongoing concerns, and we hope, of course, that this pest can be contained without undue damage.

Senator Forrestall: Has the minister any knowledge with respect to what form that federal assistance will take? Will funds be available? What resources will the federal government make available?

I should also like to thank the minister for his report.

Senator Boudreau: Obviously, the lead federal agencies, namely the Canadian Food Inspection Agency and Natural Resources Canada, do not have it within their normal resources to deal with what is quite an unusual situation. In fact, whatever resources are required will be brought to bear. I do not think there is any question that those agencies will be seeking additional funding from the central agency to enable them to conduct and fulfil their responsibilities.

TRANSPORT

LEASE DISPUTE BETWEEN PORT OF HALIFAX AND HALTERM LIMITED—REQUEST FOR UPDATE

Hon. J. Michael Forrestall: Honourable senators, I have one final matter concerning an area on the edge of the same park. Last week, the minister gave this house the assurance that he would facilitate, to the best of his ability, a settlement between Halterm and the Halifax Port Authority with respect to the reference of a matter to the federal government and the federal cabinet's rejection of that motion. What has the minister from Nova Scotia been able to do about this issue? Can we anticipate it not being a lengthy, dragged out matter?

• (1520)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I believe the honourable senator raised a suggestion in our last discussion about this subject. He suggested that perhaps the parties might involve themselves in an arbitration process to try to resolve the matter. My response to him at that time was that I took his suggestion seriously and would pass it along to the minister responsible. I undertook to do that and did so.

Since we had that discussion, I understand that another court action has commenced that, perhaps, arose out of the decision. In any event, it is now being proceeded with. I am somewhat reluctant to comment in any great detail except to say that I share the honourable senator's view that the sooner this the matter is resolved and the port can move on to other issues the better off everyone will be.

Senator Forrestall: Honourable senators, do I take correctly from what the minister has said that his colleagues in cabinet, principally Minister Collenette, have now said no to any plea that the minister might have put forward? He sounded negative about it. This serious matter will affect 7,000 direct jobs. Good Lord, we do not want that port shut down.

Is the minister not nearly as hopeful as he sounded last week about a further intervention, with the end being that the matter would come before an arbitration tribunal or institution such as the Canadian Transportation Agency for resolution? The increase is just phenomenal.

Senator Boudreau: Honourable senators, the suggestion I relayed from the honourable senator to Minister Collenette, and I may have misunderstood precisely what the honourable senator was suggesting, was that if the parties were able to enter into an arbitration process that could resolve the matter, then the honourable senator was recommending that such a thing occur. To date, I cannot report anything positive on that point.

With respect to the Canadian Transportation Agency, the government has made its position quite clear, which is that the government believes and has indicated that the agency does not have jurisdiction in this area.

With respect to the parties coming to some understanding that they would embark on some other process of arbitration, it was a suggestion that I have relayed to the minister.

[Translation]

AGRICULTURE AND AGRI-FOOD

NOVA SCOTIA—INFESTATION OF BROWN SPRUCE LONGHORN BEETLE

Hon. Fernand Robichaud: Honourable senators, my question is supplementary to Senator Forrestall's. We are told that this insect arrived on some mode of transport. We also know that there is a considerable lumber trade between Nova Scotia, New Brunswick and other Atlantic regions. What measures has the government taken to ensure that this insect does not use some mode of transport to move beyond the region in which it has presently been sighted? It would be disastrous for New Brunswick if this were to happen.

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the Honourable Senator Robichaud is absolutely right, which is why the issue is not a local issue for Halifax. In reality, it is an issue for the country, but for Atlantic Canada first. The initial approach is to determine with as much accuracy as possible to what extent those beetles have spread currently. A thorough assessment is being done.

A course of action to eradicate the beetle on the site at Point Pleasant Park, insofar as it is possible, will be presented by the task force I have described. To date, it has been suggested, although I do not think anything has been finalized, that the course of action will probably involve massive cutting and disposing of the trees once they have been cut. A number of issues have developed, such as exactly how much cutting must be done, where it must be done, what is the best method of disposing of the trees, since the beetle will remain, what time of year is best to do this work, and whether it is necessary to wait until the beetle is dormant before the trees are cut down.

Honourable senators, there is no question that dramatic action must be taken. The government is committed to doing that and will be following a deliberate process to determine how that should be done.

[Translation]

INDUSTRY

AUTO PACT—INFLUENCE OF WORLD TRADE ORGANIZATION RULING

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. Canada's appeal to the World Trade Organization concerning the Auto Pact was dismissed, which constitutes a victory for the European and Japanese manufacturers and, of course, a severe blow to the North American manufacturers.

Does the government have statistics on the potential job losses in this country as a result of this ruling, and how does it intend to counteract this economic shock?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, specifically with respect to the WTO and its impact on the Auto Pact, the Government of Canada has continued to monitor the situation. In the view of the minister, I think I can say that the impact will be manageable.

As to the details of any plans the minister has with respect to ameliorating the impact on the industry or the workers involved, I would have to seek that information from the minister directly and pass it along to the honourable senator.

Senator Bolduc: Honourable senators, a sudden 6 per cent increase is a big shock. It is not like 1 per cent or 1.5 per cent per year over 10 years, something which is manageable. Six per cent is a great deal in terms of construction costs. I hope that a solution can be found, otherwise some people in Oshawa, Oakville or Windsor will lose their jobs.

Senator Boudreau: Honourable senators, I am somewhat reluctant to provide a more detailed reaction at this point, as I should like to be more certain of the minister's views. I am aware that the minister and the government have monitored that situation and believe it can be managed.

• (1530)

ORDERS OF THE DAY

BILL TO GIVE EFFECT TO THE REQUIREMENT FOR CLARITY AS SET OUT IN THE OPINION OF THE SUPREME COURT OF CANADA IN THE QUEBEC SECESSION REFERENCE

THIRD READING—POINT OF ORDER—
SPEAKER'S RULING RESERVED—DEBATE ADJOURNED

Hon. Dan Hays (Deputy Leader of the Government) moved the third reading of Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Serge Joyal: Honourable senators, I rise on a point of order in relation to the debate on Bill C-20.

At this point in our debate on Bill C-20, there is an element which is, in my mind, very important, and one that I had the opportunity to raise in the speech I made in relation to the government prerogative.

In the speech I made on May 10, 2000, I argued that the Government of Canada has no prerogative to break the seal between the Canadian citizens and the Crown. I repeated that later on in my speech. I stated:

It is wrong, in my opinion, to maintain that the executive government has a prerogative or capacity to negotiate the dismantling of the sovereign will of Canadians to live under the rule of law and to enjoy the protection of their rights and freedoms under the Constitution throughout the whole of the Canadian territory.

I made it very clear at the opening of my speech that I did not believe that Bill C-20 was rightly based on a prerogative. The

government's spokesperson, the Honourable Senator Boudreau, in his opening speech on March 23, took a different view. In fact, at the opening of his speech, he mentioned that the executive or cabinet has the prerogative on whether to enter into negotiations concerning constitutional amendments. He continued by stating:

In the legislation's absence, there would be no limitation on the government's prerogative.

He also stated that, in the absence of Bill C-20, the federal government would have an unfettered prerogative. He continued by stating:

In adopting the clarity bill, however, the Senate would be placing a serious constraint on the government's prerogative.

He repeated that point on many occasions in his speech.

When the Minister of Intergovernmental Affairs and President of the Privy Council testified on Bill C-20 on May 29, before the special legislative committee that was charged by this house to debate Bill C-20, Minister Dion stated:

The capacity of the government to enter into negotiation, including secession, has been confirmed by the Supreme Court reference in its ruling. The court has said that in our system it is elected representatives that initiate constitutional changes.

In a discussion with Senator Cools, Mr. Dion answered:

...prerogative is plenary and can be limited only by legislation.

In pursuing that debate, Minister Dion continued to maintain that it is a Crown prerogative by stating:

That prerogative is exercised by the government and limited only by legislation.

Honourable senators, let us look into the rules of practice of this house as well as those which apply in the other House. Marleau and Montpetit, at page 643, state:

Royal Consent...is taken from British practice and is part of the unwritten rules and customs of the House of Commons of Canada. Any legislation that affects the prerogatives, hereditary revenues, property or interests of the Crown requires Royal Consent, that is, the consent of the Governor General in his or her capacity as representative of the Sovereign.

That is what Beauchesne's, too, states in paragraph 726 at page 213:

The consent of the Sovereign...is given by a Minister to bills...affecting the prerogative, hereditary revenues, personal property or interest of the Crown.

I would also refer, of course, to Erskine May. On the same issue, at page 603 of the 1997 edition, we see the following statement:

Bills affecting the prerogative, hereditary revenues, personal property or interests of the Crown...require the signification of Queen's consent in both Houses before they are passed.

This is in Great Britain, of course. Erskine May applies to the traditions and rules in the Mother of Parliaments.

I have carefully examined the course of Bill C-20, honourable senators, and I find that neither in this house, nor in the other House, in fact, nowhere, does it appear that Royal Consent accompanied the bill, and since the sponsor of the bill supports and contends that this bill is a limitation on the prerogative, I should like to draw your attention to the fact that no Royal Consent accompanies Bill C-20. Therefore, I would humbly request a decision from His Honour in that regard.

It is not my wish to prevent debate on third reading. I know that some other honourable senators want to participate in the debate on third reading, and they have expressed that desire. Perhaps the debate could continue as scheduled, pending His Honour's ruling.

Senator Hays: Honourable senators, since I am hearing of this for the first time, I have had no opportunity to prepare any comments.

As I understand Senator Joyal's concern, it is over a difference of opinion between whether or not the Royal Consent is a condition precedent to this bill being debated and dealt with in the other place or here. His position seems to be that, in the absence of Royal Consent, the matter is out of order and is not something with which we should be dealing.

I shall look at Marleau, Beaudesne and Erskine May, as I am sure His Honour will. I hope he will find, as I shall, either at the references given by Senator Joyal or elsewhere, that, where there is a dispute as to whether the matter is out of order and not properly before this place or the other place, and where there is a legal argument that would be determined by a court, it is the practice of this place to not have rule on those kinds of issues, but that they are determined after legislation is passed. They may be *ultra vires* or *intra vires* the Parliament of Canada, one or both Houses, although I believe Senator Joyal's point applies to both Houses. If it is *ultra vires*, then what the House of Commons has done is not properly before the Senate.

That issue was not raised in the other place. It is raised here. I suggest the reason it was not raised in the House of Commons is

because it is that kind of issue that is not determined not by a ruling of the Speaker. It may be determined by the members of this place or the other place in a vote, but it is not a proper matter on which to delay, awaiting a condition precedent being fulfilled, that is, getting Royal Consent. That is something that will be determined after the bill is passed, and not something which should delay our determination of whether or not we wish to pass the bill, amend the bill, or do what we are entitled to do under our rules with the bill.

Hon. Joan Fraser: His Honour will, of course, consider the parliamentary authorities in coming to his ruling. I thought it might be modestly helpful for the chamber, and His Honour, to know that, in the committee study of this bill, the question of the prerogative, although not in precisely this form, was raised and was discussed by several witnesses. The committee heard from, if memory serves, six professors of constitutional law and a former justice of the Supreme Court of Canada, as well as four political scientists, one of whom is considered to be among the ranking authorities on the role of the Crown in Canada and associated matters. None of them raised this point or anything remotely approaching this point as an objection to the bill.

• (1540)

Hon. Anne C. Cools: Honourable senators, because I was out of the chamber I was not fortunate enough to hear Senator Joyal's intervention. I should like to speak to this issue, so I wonder if Senator Joyal could, for the sake of those of us who were not here in the chamber, give us an idea of the thrust of what he is saying. I think what he is raising is very important.

Hon. John Lynch-Staunton (Leader of the Opposition): How do you know? You did not hear it!

The Hon. the Speaker: Honourable senators, that would not be a normal process of debate. Unless I am so instructed by the chamber, I do not think that I can ask Senator Joyal to repeat what he has already said.

Senator Cools: I was not asking you, Your Honour. I was asking if Senator Joyal could do so. I think this is an important question. I was not here; I am very sorry, but I cannot be in every place at the same time. It is just a question of common courtesy. If no one wants to do so, I can speak without that too, you know.

Senator Hays: Honourable senators, I can appreciate Senator Cools' concern and problem, but I should like to draw attention to Senator Cools' and to other honourable senators the precedent of requesting a repeat of something that has already been debated in terms of the point of order. I am sure that we would appreciate very much Senator Cools' contribution to this matter. She has raised the question of Royal Prerogative, and perhaps she could give us the benefit of her views on this point of order, but I would suggest to Senator Cools, to other honourable senators and to you, Your Honour, that to recap or summarize debate of one or two or three senators is a precedent that we should not follow or set.

Senator Grafstein: Honourable senators, I heard the Deputy Leader of the Government respond to Senator Joyal's motion. I have also heard the chairman of the committee. As I recall, it was Senator Cools who first raised this question at great length, both in this chamber and in the committee. Perhaps when the leader is doing his research, to enlighten the house, he could bring together those precedents that would support his suggestion that this is a legal as opposed to an important constitutional matter that goes to the heart of both this house and the other chamber. I think he has drawn a distinction between a procedural matter and the Constitution of this particular place and how it should proceed with its business as opposed to what happens if Your Honour or others or the House disagrees and it goes to court for further discussion.

It is my understanding of the procedures — and I hope I am not in error — that, first and foremost, an issue of this kind is for this chamber to consider. It is for you, Your Honour, regretfully, to deal with this issue — and, one hopes, as quickly as possible. We all understand the urgency of this bill. No one is seeking to hold up the bill. However, it is important, if this question is asked, that Your Honour look at the appropriate authorities and give us your view from a parliamentary practice aspect as opposed to a legal practice aspect. The two Houses are still the supreme arbiter of constitutional matters. I think it is first and foremost the responsibility of this place to deal with this matter as opposed to forcing it off on the courts.

Honourable senators, if the Deputy Leader of the Government either feels or can find that there is support for that contention, then we should have those precedents at our fingertips so that we can deal with them. I, for one, find it interesting because I think all of us — that is, Senator Beaudoin, Senator Joyal, Senator Cools, and others — were searching for the power of the government to proceed with this bill in the way that it has. We were given three answers. As I recall the evidence, one answer was that it was the plenary, undisputed Royal Prerogative of the Crown vested in the cabinet; the second was that it was the prerogative as exercised through one section of Constitution, namely, section 44; and the third answer was the exercise of the prerogative through the peace, order and good government. All interesting and vital questions that were raised were dealt with, but a conclusion was not reached because it was not raised in specifically this matter as a pre-condition to this very important legislation.

I have always contended, honourable senators, that when we deal with a matter dealing with the rule of law we, ourselves, should follow the rule of law.

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, I should like to have a clarification for a Canadian who is neither a lawyer

nor a constitutional expert. As you will recall, I raised this point on second reading, and asked for clarification of the last paragraph of the preamble to Bill C-20, which reads as follows:

Now, Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

This paragraph is followed by the three clauses of the bill. Honourable senators, could you explain to me whether, in a bicameral system such as ours, a bill is necessary — and I believe it is necessary and essential — or whether it would be preferable to wait until after such a bill is passed or rejected? Who would be called upon to make such a decision?

[English]

Senator Hays: Honourable senators, I did not comment on Senator Joyal's suggestion that we proceed with third reading debate while His Honour considers — that is, assuming there is no ruling from the Chair — his position regarding Senator Joyal's request for a ruling as to whether it is in order for us, as I understand his point of order, to consider this bill at all. I have no objection to that. I am quite happy to see us proceed while His Honour considers the point of order that has been raised, although I think that would be highly irregular. I am not sure that I have ever heard of that having happened before. Given my limited experience in these matters, however, that does not mean very much.

I listened carefully to Senator Grafstein, and I thought he made the point that I was trying to make very well, only he has a different view of it. He said that this is a legal matter, as opposed to a constitutional matter, and he referred to three answers. Once again, I wish to point out that, once that is said, it takes this matter outside of His Honour's power to rule and puts it right on the floor of this chamber. We can defeat it if we are concerned about it or we can amend it to correct an error, but I do not believe it is for His Honour to prevent us from dealing with this legislation. If we are wrong and this goes to the courts, then that will be the proper way for us to be proven wrong and not from a ruling from the Chair.

Senator Lynch-Staunton: Honourable senators, I think we are getting bogged down in vocabulary here. This is a procedural matter. I maintain that it is like a money bill coming here without a Royal Recommendation. Someone says, "Where's the Royal Recommendation?" Senator Joyal is saying, "Has this met the test of Royal Consent?" Is it needed? This is a procedural matter, not a constitutional one. This is not requesting whether the bill is *ultra vires* or not. That is for another body to decide. It is for Parliament it decide whether it is proceeding within its rules and the authorities that guide those rules and support them.

Senator Cools: Honourable senators, I want to apologize for not hearing Senator Joyal's intervention. I had appealed to the magnanimity and charity of senators to find out what the issue was before us, because, as honourable senators know, I have raised this particular issue again and again. I think honourable senators should be very mindful that points of order can be raised suddenly, without notice, and it is very difficult for other senators to know that a particular senator is planning to raise a point of order.

• (1550)

Perhaps at some point in time we might wish to revisit our practices in respect of giving senators full opportunity to be able to respond to some of the issues as they are raised because the subject matter that Senator Joyal has raised is extremely important, central and pivotal to the question of Bill C-20.

Honourable senators, it was once said that there is no area of law more neglected and needing of study than the law of the prerogative and its sister, the law of Parliament.

The disadvantage under which one labours when one raises these questions is that many individuals pull down a shelter, shield or cloud of it being arcane, cryptic or unknown when, in point of fact, the Royal Prerogative is the cornerstone of an enormous amount of the practices of government. All government has its source or origin in the prerogative.

We must be mindful that the prerogative has its origins in pre-history, almost. The prerogative is all of that law that we usually refer to as the inherent powers of government but the law that equips government to govern. It is called the *lex praerogativa*, the law of the prerogative. It has a name and it has been studied. Whether it is the Royal Prerogative in respect of making of coins, *parens patriae*, justice, mercy and clemency, the sovereign's appointment of ministers, the dissolution of Parliament or the proroguing of Parliament, it is a vast area of law, and it has suited this government's purpose to obfuscate some of the issues in respect of the Royal Prerogative.

Honourable senators, I am one of those who has asserted quite strongly that, when the Leader of the Government, the minister, the officials of the Privy Council have told us again and again that government has an unfettered right under the prerogative to negotiate any kind of agreement that it wants for any purposes whatsoever, there is no such prerogative.

Before I go to the question of Royal Consent, I should like to raise an important principle of responsible government. I would ask senators to be mindful of the *lex parliamenti*, the law of Parliament, which is another area of law in this country that is grossly neglected and begging study and attention. The principle I raise is as follows: That the sovereign ought not to be deceived about the character of the measure or the bill to which the sovereign is being asked to assent.

Honourable senators, the enabling clause of a bill always reads in the same fashion:

Her Majesty, by and with the advice and consent of the Senate and the House of Commons of Canada, enacts as follows:

Then the provisions of the bill begins.

It seems to me, honourable senators, that this is a bill in respect of the Royal Prerogative; therefore, Her Majesty's assent is needed in advance, as well. The Royal Assent in advance is frequently known as the Royal Consent. I am assuming that someone has already put the passages from Beauchesne's on the record about the Royal Consent.

In any event, what is crystal clear is that the government has told the chamber that it is relying on the Royal Prerogative, in essence, to alienate the Senate from the consideration of important questions of public policy.

In previous speeches, I have referred to one of the greatest jurists Canada has ever known, a Liberal named Edward Blake. He spoke of the mighty power of Parliament to advise.

I submit to honourable senators that any attempt by the government in the name of the Royal Prerogative to be able to circumvent, limit, frustrate or amend the powers of the Senate to exercise its power to advise the sovereign is a matter that deeply concerns the Royal Prerogative. Bill C-20 attempts to undermine the bicameral system. In addition to undermining the system of bicameralism, it also attempts to undermine the system of Parliament. The Queen is at the head of our Parliament. The executive function is one that is also supposed to live in harmony with the legislative function.

Having said that, honourable senators, I should like to say that Beauchesne's 6th edition, paragraph 727, states:

(1) The consent of the Crown is always necessary in matters involving the prerogatives of the Crown. This consent may be given at any stage of a bill before final passage...

The authorities show that such Royal Consent in the case of private members' bills is fundamentally different from the instance of government bills. In the instance of government bills, like Bill C-20, the minister should announce the Royal Consent at the outset of the debate, as in the instance of the Royal Recommendation in respect to financial bills and money bills originating in the House of Commons.

On the question of a bill that asks for Her Majesty's agreement and assent to limit the great power of the Senate to advise, I should like to put on the record a statement from the Supreme Court of Canada opinion in the 1980 patriation *Reference Re Amendment to the Constitution of Canada*. At that time, the court was asked to rule in respect of the Senate of Canada and the House of Commons passing addresses and resolutions.

At page 29 of that judgment, section 8 reads as follows:

Turning now to the authority or power of the two federal Houses to proceed by resolution to forward the address and appended draft statutes to Her Majesty the Queen for enactment by the Parliament of the United Kingdom. There is no limit anywhere in law, either in Canada or in the United Kingdom (having regard to s. 18 of the *British North America Act*, as enacted by 1875 (U.K.), c. 38, which ties the privileges, immunities and powers of the federal Houses to those of the British House of Commons) to the power of the Houses to pass resolutions.

In other words, honourable senators, the empowering provision of the BNA Act that enables the Senate to give advice by its resolutions and orders and addresses to Her Majesty is section 18. There is no power in any simple bill or in any other part of the BNA Act or the current 1982 act to limit that. I would submit to honourable senators that the same rests with Bill C-20.

• (1600)

Honourable senators, there has been much talk about the Royal Prerogative, but the funny thing is that no one will tell us upon what Royal Prerogative the government has been relying in respect of this entitlement to negotiate anything that it wishes. Senator Fraser has just said, a few minutes ago, that that question has been canvassed in committee. Honourable senators, I should like to counter that because the question has never been answered. No one will tell us what that prerogative is. As a matter of fact, the question was dodged. In some instances, the question was not even understood by many witnesses coming before the committee.

I submit to honourable senators that it is unspeakable by the law of Parliament to receive bills that so undermine the bicameral nature of Parliament itself. I am very well aware that, in this chamber and in this Parliament, members have been reluctant to defend the institution itself and the practices of this place from constant encroachment by members of government. We have in Bill C-20 an opposite approach, whereby, in point of fact, members of the Senate have been enjoined and enlisted in undermining the Senate.

Regarding section 18 of the BNA Act, the court's 1981 advisory opinion holds that there is no limit in any part of the Constitution. I would also submit that, by section 18, this Senate and our Speaker also has a duty to concur with the concerns of Senator Joyal.

Honourable senators, if one were to review the development of section 18, which grants to the Senate the power to advise Her Majesty the Queen, you would find that that question was hard fought for a century in Canada. It was a very difficult fight. The question bothered the colonial office in England. Those offices were reluctant to grant to any legislative assembly in Canada the full plenary powers of a Parliament. The powers of Parliament,

as were finally given in section 18 and as encouraged by Sir John A. Macdonald, gave full plenary judicial powers to safeguard the institutions of the Royal Prerogative and to safeguard the institution of Parliament.

I would go further than Senator Joyal. I would say that the powers of this institution as given were enormous in order to protect against such encroachment. The Constitution Act, the BNA Act, far from being silent on the question of the breakup of Canada spoke loudly against such questions as acts of treason. If we know anything about the Royal Prerogative, we know that the king cannot countenance any dishonour to the king himself. The Royal Prerogative has some characteristics, the first of which is sovereignty, the second of which is perfection, and the third of which is perpetuity.

The first duty of the king's advisors toward the citizens, the subjects of the king, is to preserve the stability and the nation as it exists. In other words, they must preserve the territorial integrity of the nation as a whole. That is why the expression exists, "The king is dead. Long live the king." The king never dies.

I would submit, honourable senators, that the Law of Parliament, as it has existed and developed alongside the second, older form of law, absolutely forbids the contemplation of any potential deception or misleading of the sovereign. Furthermore, the Law of Parliament prescribes some severe and harsh penalties for ministers who would so violate the Law of Parliament.

Honourable senators, this morning I was chatting with one another Senate colleague about Louis Riel, who, as you know, was hanged for treason, and not that long ago. That was only in 1885. Her Majesty the Queen has imposed upon us by our oath of allegiance — which we all must take when we come to this place — a duty of allegiance. The first duty of allegiance is the preservation of the nation and the preservation of the Constitution as we have found it, not as we should like it to be, not as some want it to be, but for the current state of things, so that the subjects and citizens of this land may continue their business on a day-to-day basis without fear of disruption and so that the country can remain as an intact, integral unit called Canada.

Many have said that the Constitution Act began with a preamble that articulated the provinces' expressed desire to federally unite. The federal union is one dominion. Honourable senators, this has been a much debated subject. I maintained then, and I maintain now, that that union is indivisible. Any simple bill that purports to alter that union is at once contrary to the Royal Prerogative and, at the same time, contrary to the law of Parliament.

Honourable senators, Bill C-20, even before it was introduced, should have met with a consultation with Her Majesty or Her Majesty's representative in Canada.

I urge honourable senators one more time. Do not believe for a moment that this subject matter is cryptic or beyond your reach or arcane. We are dealing here with the nuts and bolts of how governments run and how governments maintain themselves in power. Honourable senators, the first duty of the Parliament of Canada and the first duty of the Government of Canada is the maintenance and the sustenance of Canada as a whole as a nation, governed as it is by a bicameral system, being the Senate and House of Commons, backed up by the head of Parliament, a full constituent part of the Parliament, called the Queen.

I plead with His Honour to look at this matter. I tend to agree with Senator Hays in this particular instance that these matters should be rightly decided by senators because, in the long run, I sincerely believe that the Speaker of the Senate has no role in these sorts of decisions. I would also submit that my opinion on this matter has been ignored frequently. The Speaker is called upon again and again to make rulings, rulings that I think should really be resolved by debate among senators.

On the Speaker of the Senate and his role in the question of the Royal Prerogative, I remind us that, in the Senate, the Speaker of the Senate is the king's man and/or the Queen's man or the Crown's man. There is a reason for that. Senators were supposed to be elevated and be higher in precedence and so on than members of the House of Commons.

• (1610)

I should also just like to essentially situate this entire argument in its historical perspective and to say again that these are matters that the chamber should really be deciding. I know that I shall receive some support for that proposal from Senator Molgat because I remember from the GST debate, and many other debates, that one of the strongest proponents for electing the Senate speaker was Senator Gildas Molgat, so I know he will lend some credence to what I am saying.

In any event, the fact of the matter is that this action should not be viewed as any delaying tactic by Senator Joyal. In all frankness, I believe that Senator Joyal has done a splendid job on the floor of the Senate on this particular question.

I really do believe that senators should take their role in a very serious way and come to terms with the fact that this is all part of the high court of Parliament, and that its judgments, especially of a judicial nature, are of the highest order. The very fact that Bill C-20 has come to us named as it is, an act to put into effect an advisory opinion of the court, also undermines the Royal Prerogative and the Law of Parliament. If we know anything about the Law of Parliament, it is that the Law of Parliament will permit no encroachment from any other court of the land.

In any event, I thank Senator Joyal. My apologies that I did not hear his presentation.

I would also commend to senators that they study those provisions of the Constitution Act, the BNA Act itself, which

speak to the treatment for treason and the harsh measures that the law of Parliament meted out for any attempts to disturb the union.

Honourable senators, this matter of secession has come up again and again, and in Canada now it is race based. You should know that much of this touches me in a personal way because I belong to that group of people about whom a civil war was fought in the United States of America.

As a child growing up in the Caribbean, much of which has maintained its strong British links, the British system of Parliament was always upheld to me as the ultimate or penultimate solution politically for all social problems, for all social ills.

Your Honour, that is what, I am asking you to uphold — the Law of Parliament in respect of its enormous esteem for the Royal Prerogative. The first duty of this Parliament, of our Speakers' and of our members and senators is to remain loyal to our oath of allegiance. It is our own loyalty that we owe to the Queen and to this country that Senator Joyal is asking us to uphold.

Hon. Sharon Carstairs: Honourable senators, I think it is important in our study of the point of order raised by the Honourable Senator Joyal to recall a number of developments outlined in Beauchesne. To begin with, paragraph 317 indicates:

Points of order are questions raised...calling attention to any departure from the Standing Orders or the customary modes of proceeding in debate or in the conduct of legislative business and may be raised at virtually any time....

Clearly, Senator Joyal has done that in his question of whether Royal Consent or Royal Prerogative have been appropriate in that it has not been given for this particular piece of legislation.

Then I think we should turn to Royal Consent itself, which is very clear. Paragraph 725 states:

The consent of the Sovereign...is given by a Minister to bills...affecting the prerogative, hereditary revenues, personal property, or interest of the Crown.

Paragraph 729 states:

The Royal Consent to a bill is not required unless it affects the personal property of the Sovereign...

I find it difficult to think that we are dealing with an issue of the personal property of the sovereign in this particular instance.

Finally, honourable senators, I think it is important to return to what is, in fact, a point of order. Paragraph 322 states the following:

When a bill is under consideration, points of order should not be raised on matters which could be disposed of by moving amendments. The same may be said about Instructions which can only be moved if they are within the scope of the bill. It is more advantageous to proceed by amendment on the third reading when, if the House divides, every Member's attitude is clearly shown. Points of order are justified when there is some flagrant misuse of the rules, but they are unfortunate necessities which should not be regarded as usual phases of procedure and ought not to develop into long arguments with the Speaker who, being in a quasi-judicial position, should not be drawn into controversial discussions.

Clearly, there is some controversy in this bill presently before this chamber. I personally think it would be better dealt with by discussion among the senators.

Hon. Nicholas W. Taylor: Honourable senators, I do not know if there is cross-pollination or a contagion with sharing seats with Senator Cools. I do not agree with her entirely, but she has a point. I might find my seat is removed tomorrow, but nevertheless, to the Deputy House Leader. I notice both Senator Carstairs and Senator Cools missed part of Beauchesne's paragraph 727. When we read it all the way through, it says:

This consent may be given by a special message or by a verbal statement....It will also be seen that a bill may be permitted to proceed to the very last stage without receiving the consent of the Crown but if it is not given at the last stage, the Speaker will refuse to put the question.

Obviously, I think that would imply that debate could continue in stages, so you have some time, Your Honour, to form your opinion. The debate could continue.

As far as the Royal Prerogative is concerned, I have always felt that there are two types. Royal Assent is needed if you are intending to take away royalty's property, and that is covered quite adequately in Beauchesne's, paragraph 729, as Senator Carstairs mentioned. The other Royal Prerogative is property held for the people of Canada in the right of Crown. You always hear, "You can sue the Crown," you can sue this and that.

Separation is where it gets a little bit hairy. If you separate and are not recognizing the Queen, of course you are changing the Queen's property. If you have sovereignty and you still recognize the Queen, you have not affected Royal Prerogative. I do not want to get into detail, but the Royal Prerogative comes up on a question of property.

The question is, Your Honour, quite clear from Beauchesne's. The debate can continue because Royal Prerogative can be inserted into the process at any stage before the vote.

Senator Cools: Honourable senators, I should like to add to what Senator Carstairs had to say, because if anything, this debate is showing that there is a need for a thorough study of the

law of the prerogative. I believe that Senator Carstairs was referring to the question of personal property of the Sovereign. That is one small, microscopic part of the prerogative, and it is not particularly relevant in this particular issue here.

• (1620)

When Senator Carstairs raised her points, I was not clear as to what personal property of Her Majesty in Canada, in addition to Crown-held lands, she was noting. I do not think that we have too many difficulties in Canada with the personal property of Her Majesty. However, we do have a lot of difficulty in Canada with the law respecting Her Majesty's exercise of her powers in respect of Parliament.

I wanted to note very clearly that the concept of the personal property of the sovereign is a microscopic part of the Royal Prerogative and not relevant here. The relevant Royal Prerogative is the prerogative of maintaining the Queen's peace and the prerogatives of making war. In addition, there is the prerogative of determining who should be the enemies of Her Majesty and at what point these enemies become traitors. It is has always been held in the British common-law tradition that there are moments in time, for example, when two different opinions can gather enough strength to be viewed as enemies rather than as traitors.

However, no matter how one looks at this question, the fact of the matter is that the Queen is present in this chamber. The Queen is always present in Parliament, and the Queen is present in this bill.

Honourable senators, the question that must be answered is whether the interests in this bill are consistent with the Queen's interests in respect of Canada. That is the fundamental question that the government has declined to answer. The government has not assured us that this bill is consistent with the oath of allegiance, which we are all required to take in accordance with the BNA Act.

Interestingly enough, I put that very question to Minister Dion yesterday. I asked him what duty of allegiance to Her Majesty the Queen and to the one Dominion of Canada he held in respect to Bill C-20. I would admit to honourable senators here that his answer was less than satisfactory.

The Hon. the Speaker: I want to thank honourable senators who have participated in the debate on the point of order. I believe that I have heard now sufficient discussion. With the agreement of the Senate, I would take this point of order under advisement.

The suggestion has been made that the debate might continue. If that is the agreement of the Senate, I would be prepared to call the next speaker on my list.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Richard H. Kroft: Honourable senators, I rise to speak today to Bill C-20. It is the first time that I have spoken to the bill in this chamber. While intensely interested, I have chosen to listen to others who have been here much longer than I and whose personal experience in matters relating to this bill is much greater. I have been amply rewarded.

Senators, both on second reading debate and in the special committee on which I had the privilege to serve, have been outstanding. We have been exposed to able and knowledgeable witnesses. No one will ever be able to say that this bill, with all the fundamental issues it touches, has not been dealt with superbly. Anyone who claims to understand or judge the Senate should first read the debates and committee proceedings on Bill C-20.

There are many issues raised by this bill. I wish to address the three that have most preoccupied me — the scope and purpose of the bill, the matter of Canada's divisibility, and the Senate's role as contemplated by Bill C-20.

First, I shall speak to the scope of the bill. While it is unquestionably true that Bill C-20 is an important bill, we should not read more into it than is there; nor should we attempt to hang things on it or expect more from it than is reasonable our correct to do.

Bill C-20 is designed to be only a step in what would be a long and difficult process. It is a direct response to the Supreme Court's decision on the *Reference re Secession of Quebec*, 1998. Its only purpose is to establish a process to determine the clarity of a referendum question and the clarity of the expression of the will of a province in a referendum vote that the court required. It is not to set the rules for a secession negotiation. It is not to establish criteria for determining the views of Canadians other than in the province in question. It is not to protect minorities or special interest groups, and it is not to determine who is represented in discussions or by whom. The provisions of our Constitution, other legislation and the political judgment of governments and legislatures of the time will determine those things, and many more. All that Bill C-20 is designed to do is to establish rules to apply at one stage of a process in the place of unilateral secession action that the Supreme Court has said is illegal. I strongly suggest that looking at Bill C-20 in terms of this more limited but crucially important function will eliminate many of the concerns that have been attached to it.

The second matter is divisibility. The Supreme Court, in its decision on the reference, stated clearly that under certain carefully defined circumstances, there is a constitutional right of a province and a constitutional duty on Canada to negotiate secession.

Honourable senators, leaving aside for a moment the issue of the force and the effect of the reference, the legal position is quite clear. To assert that Canada is indivisible requires saying that the Supreme Court was wrong in its decision. While anyone, of course, is entitled to express such a view, it is not easy to see where one goes with it, especially since the court has spoken to both domestic and international rights.

A special committee thoroughly examined the force and effect of the reference decision. Minister Dion was absolutely clear that the government considers the opinion to be binding. A variety of expert witnesses, including Professors Monahan, Garant, Magnet and Hogg, agreed and confirmed that it is the widely held view among authorities on the subject.

While the status of a reference opinion will probably continue to be the subject of some scholarly speculation, I submit that the reality is clear. The Supreme Court has said that Canada, in very carefully defined circumstances and following carefully defined processes, is divisible. That is the law of Canada.

My next point is in the nature of an observation. While it has not always been obvious from media reports or even from the language of senators, few or perhaps none of us in this chamber have argued that Canada is truly indivisible. There has, on the other hand, been much analysis of how difficult it should be to divide the country. There has always been much discussion and soul searching as to whether we should actually say it is divisible in writing, in resolution, in ordinary legislation or in the Constitution.

I now want to turn to some of the theoretical propositions that have been advanced. I use the word "theoretical" with great respect and in the most positive sense.

Senator Joyal, on May 10, 2000, laid out with great clarity, in great detail and with admirable scholarship a theoretical framework for several aspects of this debate. Many others, before and after, have presented analyses and insights that have built on and around that framework. Others have come from different directions altogether.

Honourable senators, let me go to the beginning of Senator Joyal's speech, where he lays down the foundation of his case on indivisibility or, as it appears to me, near indivisibility.

He reminds us that, unlike in the case of France and "many other federations and unitary countries in the world," Canada's Constitution contains no explicit statement of indivisibility. Senator Joyal, in response to a question from Senator Lynch-Staunton, described how he tried, in 1981 and 1982 when co-chairing the Special Joint Committee on Patriation of the Constitution, to insert a statement of indivisibility. He told us that he was unsuccessful for reasons he explained and, judging from his words, which seemed to him to be understandable.

We then come to a portion of Senator Joyal's argument that leads me to serious questions. He calls our attention to the language of the Supreme Court, paragraph 62, where it is suggested that the word "democracy" does not appear in our Constitution because it is so obvious that it might have "appeared redundant, even silly" to have done so. He draws a parallel and suggests that the framers of our Constitution in 1865 and following would have felt that the concept of indivisibility was so obvious that its inclusion would have appeared similarly "redundant, even silly," and therefore "it was simply assumed." It seems clear to me from Senator Joyal's words that his entreaties to include an explicit statement of indivisibility in 1981 and 1982 were not rejected because the idea was "redundant or even silly." On the contrary, they were rejected because an explicit statement of indivisibility would have cut deeply to the core of Canadian sensibilities and put at risk the delicate balance that allows our remarkably rich, sometimes contradictory and always finely balanced confederation to function.

• (1630)

Honourable senators, let me test this analysis in the context of 1867 and the environment in which our Fathers of Confederation were working. They had a monumentally difficult task. The proposed parties — the provinces — brought widely differing histories, culture and political temperaments to the table. They faced large, difficult geography, which was to be even more vast in the great vision of John A. Macdonald and others with whom he shared it. Perhaps most important of all in terms of real politics, and unique among all other countries at birth, they had the example of the United States at their very doorstep. Like Senator Joyal, I look there for guidance and insight.

What were the compelling realities the United States example imposed? Not having the word "indivisible" in their Constitution, they certainly had experience with the concept. "In pursuit of the more perfect Union," to quote their preamble, they had endured on the very eve of our Confederation a bloody and terrible war. To make their Union indivisible, they lost the lives of more of their citizens than in any war before or since. Make no mistake, honourable senators, it was about indivisibility. It was the belief of the Union that only an undivided America could then have pursued its macroeconomic and social goals, based on freedom and not slavery and on the trade and industrial policy the Union sought to achieve.

While the United States courts had talked about indivisibility, it was the Civil War that sent a stark message to the drafters of our Constitution. It was the Civil War that presented the harsh reality of rigid indivisibility. It was the Civil War and its root causes where rights and powers heavily weighted to the states hampered efforts to build an even greater nation.

I therefore suggest with all respect for my colleague Senator Joyal that an explicit statement of indivisibility was not left out of our Constitution because it was so obvious not to be needed; it was left out because it was seen as inappropriate for the new Canada that was being created. Instead, reacting to the

experience of the United States, our framers sought and found more subtle constitutional provisions. They assigned areas of legislative jurisdiction tilted more to the central government than in the United States. They granted their Canadian government the residual power. They mandated the Canadian Parliament to make laws for the peace, order and good government of Canada.

The framers of our Constitution were not ignorant of the ringing declaration of indivisibility in the French Constitution — of course not. They were obviously aware of it. They were more moved, however, by the spectre of what such an immutable constitutional provision could mean.

I agree with Senator Joyal that the United States had the concept ingrained, even though the word was not there. However, I draw a different conclusion from that fact. In my view, it was enough to caution our drafters, already sensitive to the delicacy of their position. I suggest to you that in Sir John A. Macdonald's vision of Canada's future he saw more potential in the unifying power of a national railway than he did in a provocative phrase. He understood, I believe, that whether Canada would prove to be indivisible would be determined by the effectiveness and flexibility of its Constitution and the wisdom, generosity and efforts of its governments and its people rather than by a declaration in a document or a concept incorporated by implication.

Honourable senators, you now have before you two very different views of how we got to where we are based on two different readings of our history. Nothing I have said is intended to challenge or invalidate any of the technical arguments that have been made. However, I believe that a different constitutional reality has been built on our shared British heritage. I too cherish that heritage, which, in a modern context, has allowed continuous and fundamental constitutional evolution and even division in Britain itself.

I earlier observed that few or none in this chamber have advanced a case for absolute indivisibility. Rather, there has been a wide range of views on how rigid or difficult the process should be. The technical analysis leads to a notion of indivisibility and a high degree of rigidity. My approach suggests that, while fully understanding all of the constitutional powers, privileges and obligations that came down to them through history, our Fathers of Confederation were more heavily influenced by their knowledge of more contemporary events and the political realities they faced in Canada. Canada, I submit, was born of flexibility and the willingness to adapt constitutional theory to the work they had to do.

Now to today's problem. Since, as I have observed, few if any are saying there is absolutely no right of secession under any circumstances, the question really is: Where do we set the bar? Is it as simple, if I can use the word, as a constitutional amendment by one or the other of the formulae? Is it unanimity of provinces, with or without a national referendum? Or is it, as a very real possibility, the subject of a general election?

All of these are worthy of extensive debate and would no doubt receive that should the awful circumstances ever arise. However, in a very real way all these questions are beside the point and are not before us in this very short, simple bill, Bill C-20. If we said, I suppose, that the bill fails fundamentally because it envisages an event, the secession of a province, in which no circumstance whatsoever is possible under our Constitution, we could perhaps reject it. However, I do not read that into the constitutional position enunciated by the Supreme Court, nor do I hear that in this chamber. Nor, honourable senators, do I hear wide support in this chamber for the case that a national referendum must be held before negotiations could begin under the terms of Bill C-20.

The case of a national referendum was vigorously advanced in committee but was not supported by most of our expert witnesses. Its rejection was reinforced in an article in the *National Post* on Wednesday, June 14 by Professor Patrick Monahan. He dealt fully and directly with this question and emphasized that the concept of a national referendum prior to negotiation contradicts both the Supreme Court and the very principle of demanding clarity of question and result as a pre-condition to negotiation.

One of the most important things about our debate on this bill, and, indeed, one of the most important things about the Senate itself, is that we send messages to Canadians and beyond. My message would be that we have resolved from the day of our creation as a nation that we are a voluntary coming together of people organized in provinces and territories and united under certain principles. We rely on our values and our conduct to keep us together. We acknowledge that the inevitable consequence of an absolute denial of divisibility, should our ability to meet the needs and aspirations of a province ever be irrevocably lost, is a price that we are not prepared to pay. We must therefore accept that, if all else fails, a safe and reasonable approach to separation is what we would have to find. That is what the Supreme Court has told us and that is what I believe is right.

Finally, let me turn to the position of the Senate under Bill C-20. The role of the Senate envisaged by Bill C-20 has attracted a great deal of attention in this chamber, and no wonder. For a variety of reasons that have been advanced, and others that have been speculated upon, the government has decided that the role of the Senate under Bill C-20 should be limited to one of consultation without bicameral parliamentary process. The result has been great stress on this institution and on individual senators, including myself. It is particularly difficult because of the importance of the bill and its relevance to the historic role of the Senate.

I wish to describe how I have sorted my way through this issue and why I shall support the bill without amendment. From the start, I have been perplexed by the provisions to limit the role of

the Senate. I find it particularly difficult because, like many in this chamber, I am strongly in support of the bill otherwise. I was in favour of the reference to the Supreme Court and was delighted and encouraged by the conclusions and quality and thoroughness of the decision. My inclination, therefore, has been to support Bill C-20 since it is designed to give legislative effect to the core findings of that decision.

To do so, I have had to find my way through the other problem, the Senate problem. I use the expression and have had to find my way with good reason. After reading Bill C-20 and realizing its provisions in terms of the Senate, I had difficulty in seeing how I could support it, in spite of my conviction about the bill's principles and purpose. I sought every opportunity to exchange views with others similarly preoccupied. I listened carefully to the speech of Senator Boudreau on introduction of bill in this chamber.

• (1640)

While I was not swept away by it or instantly converted, it did serve to turn my mind in new directions. More than anything else, it caused me to step back and look more thoroughly at the entire picture that might emerge in a provincial referendum situation and the various steps that would ensue.

I contemplated the complete sequence of events that would confront Canadians in the case of another referendum call through to, in the worse circumstances, a constitutional amendment process dealing with the secession of a province.

I then thought more about constitutional amendments and the Constitution Act, 1982. I read that act and articles and the speeches from that time, particularly in regard to the Senate. What comes through clearly is the major role the Senate played as part of the shifting of constitutional power to the provinces. Limited only to matters of constitutional change, by giving up its absolute veto and accepting the suspensive one, the Senate took a step in favour of a new order. That decision, agreed to after deep thought and I am sure conflicting feelings by senators of the time, did create the context for our dilemma today.

Without that decision, and the acceptance of constitutional evolution by the Senate in 1982, I would not be voting for Bill C-20 today. It would be difficult to accept a limitation in our role without there having been other fundamental constitutional events. However, 1982 and the evolution it represented in the affairs of our country did happen. Our role in constitutional affairs is clearly defined and is different from that of the other place, and therefore today I can, and indeed must, look at Bill C-20 in that light.

I accept that some debate will continue as to whether the decision on clarity would technically be part of an amendment process. However, it is obvious to me that the overwhelming expert evidence we heard was that the government is not exceeding its powers in treating it as such and in not involving the Senate as an active party until later in the amendment process.

In the course of this study, I have looked carefully to the powers of government, the Senate and the House of Commons in respect of constitutional change. I have also had the opportunity to listen carefully to Mr. Dion on the subject as well as to leading constitutional experts in committee. I have found credible the arguments that the Senate lacks the power held by the other place, the power to withhold confidence from the government.

Coupled with the unqualified right of the government to enter into discussions and negotiations with the provinces that may lead to constitutional amendment, there is a power relationship between the Commons and the government that simply does not exist in terms of the Senate. This, in turn, rests on the view, again strongly supported by evidence at committee, that a constitutional amendment on secession would be an amendment like that on other fundamental matters.

Acknowledgement of the right of the Government of Canada to enter into negotiations possibly leading to a constitutional amendment and subject only to maintaining the confidence of the House of Commons, is essential to acceptance of Bill C-20.

However, I submit the other side of the coin is equally true. Unless one can successfully advance a case against the power of the government in such circumstances, and oppose some new and different procedure, it is difficult to deny the right of the government to proceed as determined by the Supreme Court and incorporate it in Bill C-20. I have heard no one do that. The overwhelming weight of expert evidence in the special committee confirmed that the government has this power.

Even if one follows the suggestion of Professor Magnet that a secession amendment could require the unanimity formula, it make no difference to Bill C-20. As several experts have observed, Bill C-20 comes too early in the process for that and other important matters to be at issue. It has clearly been established to my satisfaction that a national referendum is not a condition precedent to negotiations.

After all this, I still ask whether it had to be this way or whether other options were available. Many of us have struggled with this. I accept evidence given to the committee most explicitly by Professors Monahan and Hogg that the government has many options. Mr. Gibbins of the Canada West Foundation also agreed that the government has a choice of where to go for advice in this matter. On the one hand, it could have sought no legislative authority at all and proceeded on its own power to negotiate constitutional change, including secession. On the other hand, the government could have selected one or both houses of Parliament or some other group altogether to judge the matters of clarity of question and majority. The government opted to refer the question to the House of Commons.

There are two principal arguments offered in support of this choice; first is the fact of it being the popularly elected chamber to which the government is ultimately responsible, second is the concern about the two Houses coming to different conclusions, a

deadlock for which the legislative process of amendment or defeat would not be available.

Based on these two arguments, the designation of the House of Commons alone is not an outrageous or irrational choice. In fact, I suggest that many of us would be comfortable taking that side of the debate, were we not senators.

Senator Cools: I do not think so.

Senator Kroft: However, that is hypothetical. We are senators and we do have a view, a feeling, and a responsibility on this matter not shared by others. Thus, we are placed in this dilemma. There may be some in this chamber, but I suspect not many, who believe the government's course of action is completely appropriate and acceptable without question.

For myself, I acknowledge it as legally correct and not in violation of any parliamentary or constitutional rules of procedures. On the one hand, I am driven to do so by the clear weight of evidence and learned opinion that has been placed before us and my own careful analysis of it. On the other hand, I do regret the government's decision.

While it is a legitimate and supportable option, within the range of acceptable alternatives, it is a lesser option. With the Senate fully involved, a more considered position and greater representation of broad Canadian interests would have been assured, even if special rules as to the Senate's response time had been imposed. Would this have been at the expense of some efficiency and certainty? Perhaps so, but depending on circumstances, and on who is in control of the House of Commons and what their view of Canada may be, some inefficiency or uncertainty might not be a bad thing.

If uncertainty and the fear of deadlock were too serious to contemplate, some sort of joint committee might have been devised. There were other possible choices. Government is always a matter of choices. That is the business of government.

Honourable senators, a decision has been made. Based on all that I have heard and read, I am satisfied that these are matters of political judgment on which the government has a right and responsibility to make a determination. They are not matters that impose on senators an obligation to defeat or amend this bill.

We must still ask ourselves about the rights and duties of the Senate and its place in the parliamentary process. Is there damage done here? That we must ask, since we were entrusted with the protection of this place. Will the future of the Senate be compromised? What will be different afterwards?

I cannot answer those questions for everyone here, obviously, but after many weeks of intense and objective study, I can answer it for myself. I do not believe the Senate will suffer. In fact, I do not believe there is any significant change from what has prevailed since 1982. It is simply a logical piece, resulting from the decisions taken at that time.

A decision was made in 1982 for our Constitution and, with it, for our Senate to evolve. The Senate is assured of its role in any constitutional amendment process if it would be required to give effect to secession of a province, as it would be with any other amendment.

In closing, I wish to state that my support of Bill C-20 rests on a personal conviction that it does not go beyond the Constitution Acts now in place or beyond the powers of government or the House of Commons granted by written constitution or convention. Bill C-20 represents absolutely no incursion on existing powers of the Senate. The Senate is not denied any rights or powers it now holds within the general scope of law-making or in the constitutional process. If I believed otherwise, I would not support it.

• (16:50)

Beyond this, and of far greater importance, I strongly believe that Bill C-20 will prove to be an important and valuable tool in the cause of national unity. The decision in the Supreme Court reference denied legitimacy to arbitrary, unilateral secession by a province. Bill C-20 assures that our country will not be divided by accident or confusion. Honourable senators, I urge you to join with me in supporting Bill C-20 without amendment.

Hon. John G. Bryden: Honourable senators, I should like to make a comment to Senator Kroft. I have had the opportunity not only to listen to his speech but to review the transcripts of the testimony before the special committee dealing with Bill C-20. Much of it was instructive, and some of it was enlightening.

I want to say very clearly that the comments and questions that were directed by Senator Kroft during that time were the most cogent and directly on point of any of the questioners that I was able to review. I want to say also that a speech that I would have given, had I the opportunity to put it together and do it well, would have been the speech that Senator Kroft has just delivered. I concur with his clear analysis and his position. I may get an opportunity to speak later, but his is the clearest statement that I have heard. That is why I, too, will be supporting Bill C-20.

The Hon. the Speaker: Honourable senators, so that there may be no misunderstanding later, because I realize that this is a very important bill, Senator Kroft spoke for more than 15 minutes. Under rule 37(3), being the first speaker after the sponsor of the bill, the sponsor being Senator Hays, Senator Kroft was entitled to a 45-minute allotment, under our rule. Senator Bryden's comments are within that 45-minute period. Others may speak within that 45-minute period without exhausting their right to speak at a later date. I just wanted to have that clear so that there would be no misunderstanding as to

the procedure. If there are other questions or comments within the 45-minute period, it will not exhaust honourable senators' rights to speak again.

Hon. Marcel Prud'homme: The honourable senator said at first that he regrets. Well, any time someone starts by saying "I regret," I pay attention, because I know that the conclusion will not go with the regret.

He says, "Of course, we have reviewed." To that, I say, sure. So has everyone else in the country. The difference with everyone in the country that has views is that we have a constitutional view. We are the Senate of Canada. That some people disagree with the Senate or not could be a debate at another time. We have never gone to the country explaining what the Senate is all about.

Does Senator Kroft still feel very comfortable, even though he regrets having to go that way, that the Senate is being eliminated in the process? We know that until Canadians — only Canadians, not scholars, not the press, not lobby groups, but Canadians — decide to change the institution, Parliament is two Houses: the House of Commons and the Senate. Here is a bill under which we senators will debase — perhaps another word is "diminish" — ourselves. We just decide that we do not count. We have not only diminished, we agreed to disappear in such a very important matter.

What is the honourable senator's view on that? Does he not see it as a diminution? It is more than that. I wish I had the vocabulary, but I want to speak his language.

[Translation]

This is doing more than diminishing our powers, it is doing away with the fundamental right of the Senate to take part in one of the major steps in the political life of Canada.

[English]

Senator Kroft: Honourable senators, I do not agree, obviously, and the point that I was trying to make is that we are not giving away, or whatever word it was the honourable senator would have chosen, any power that we now have. My analysis demonstrated that we shall remain with every power we have today after the passage of this bill. While the other place has, for the purpose of a consultation, been given a greater power within the terms of this bill, nothing has been taken away from us that we now have. Our role in any future legislation or constitutional amendment will be undiminished from what it is today. I do not have this challenge of conscience that Senator Prud'homme would like to impose upon me.

Hon. Jeremiah S. Grafstein: Honourable senators, Senator Kroft knows my view. We had the opportunity to listen to each other and ask questions. We do have a fundamental difference that I want to ask him about, and that difference relates to a view of the country.

I start with the proposition, which he opposes, that we did indeed come together in a voluntary manner. The various colonies came together in a voluntary manner through their legislatures and through votes. I agree with that. However, once we were joined in the mighty nation under one Parliament and under one Crown, it was clear to me, based on those early debates, that in fact we had passed from a voluntary, consensual relationship between the various constituent parts of Canada into a mighty union, an indissoluble, indivisible union. The words very carefully chosen, if I recall, by Sir John A. Macdonald, were, "under the Crown." He said, and I quoted his speech, that the desire of the parliamentarians of the day was to come together to form one people, one country, under the Crown — the Crown; and indivisible. He used the word "severance." In that same speech in 1865, which I quoted, he said that we could not allow any severance because we had vested all that power in the Crown.

My question is this: How does the honourable senator differentiate between that very appealing and difficult to dispute notion of voluntary joinder and the proposition that once we voluntarily join, we live under a constitutional rule of law and therefore are bound, not by opinion, not by assent, but by rules of law? How does Senator Kroft deal with that proposition, before dealing with others?

Senator Kroft: Honourable senators, I certainly did deal with it with a great deal of thought before delivering this speech, and there is no question, like many things in life, that getting out is easier than getting in. That is in the nature of our confederation or our union. I would not suggest in any way, nor do the constitutional rules that we have devised over the years, that one passes in and out of a collection of provinces that have come together in an union.

● (1700)

However, neither do any of the terms "rule of law," "mighty nation," or "under the Crown" mean to me the permanent forgoing of a right, under any circumstances and any conditions, to ever tear that asunder. Even if we go to the Mother of Parliaments under the Crown, the United Kingdom has found a way to meet its needs for division, separation and contrivances in between.

I agree that once pulled together as a mighty nation under the rule of law and under the Crown it should be difficult to separate, but I do not agree that we should press that point so there is no alternative other than force, which I do not think Canadians are prepared to accept as viable.

Senator Grafstein: I shall cite one short example and then leave it for another day, that example being Western Australia. The Australian states were brought together in a union not dissimilar to the way in which we were. In 1933, one very

unhappy state, Western Australia, voted on a clear proposition that they wanted to separate from the other states.

That issue came forward to the Australian Parliament, and Parliament said that it had no power to deal with the issue. The matter then went to the House of Lords for a judicial determination. The House of Lords found that even if a state voted in favour of a clear question, with a clear majority, the Parliament and the government had no obligation to negotiate. Its reasoning was in terms of the Royal Prerogative to which Senator Cools has been referring. It was simple and straightforward that the only way there could be secession was if there was a vote of all the people, because true sovereignty did not rest effectively in the Crown but with the will of the people of the entire union. I should like to hear Senator Kroft's comments in that regard.

Senator Kroft: Honourable senators, first, the law of Canada has been enunciated for us by the Supreme Court reference. The procedure and the obligation to negotiate has been set out. Further, while I have tried to analyze and reject the obligation to call for the referendum before the negotiation on secession, which to me is a fundamental contradiction in terms, there is the potential, should it be the decision of the political leadership of the time, to later have a national referendum. Nothing in any of this rules that out or rules out an election.

In the early portions of my speech, I was saying that we should not build everything into Bill C-20 and that we should let everything mature in its time, while staying within the context of the law enunciated in the Supreme Court decision. Then, if it is the national consensus and if court decisions or a compilation of provincial referenda legislation comes to the fore, we may indeed have the effect of a national referendum. I see nothing to rule that out. I am only addressing what I feel is imposed in the proper legal processes under our Constitution and our judicial decision.

Senator Grafstein: I wish to address a comment to His Honour.

There was an issue earlier today dealing with the question of sovereignty and prerogative. I specifically wanted to address this question to my honourable friend to perhaps help you, Your Honour, examine as deeply as possible the very potent question raised by my honourable friend Senator Cools with respect to the nature and role of the Royal Prerogative as it applies to the indivisibility of Canada. My friend has been raising this and has joined issue on it. Regrettably, Your Honour, this is a question of the rule of parliamentary law, and you are now burdened with this awesome task.

Senator Cools: Sovereignty is indivisible. That is why, in the British constitution, sovereignty resides in the person of one — the King or the Queen. Sovereignty must be and is indivisible.

My question has to do with the Liberal Party position, which Senator Kroft has adopted. In committee, Senator Pitfield expressed some surprise that the Liberal Party has now adopted a position that Canada could be dismembered, partitioned or divided.

First, what process did the Liberal Party of Canada exercise to arrive at such a Liberal Party position?

Second, former prime minister Pierre Elliott Trudeau, the leader of the Liberal Party, was compelled in 1980 to make the reference to the Supreme Court on the then patriation reference. He expressed his opinion of what the court did in that 1980 reference. Knowing what Mr. Trudeau has said about the Supreme Court's opinion of 1980, about which Mr. Trudeau has spoken extensively and from which I have quoted extensively in my speeches, how did Mr. Dion and other supporters of the current position arrive at the position Senator Kroft is now adopting? Most Liberal prime ministers of Canada have never adopted a similar position.

Senator Kroft: Honourable senators, I could not begin to tell you how former prime minister Trudeau arrived at his position or how Mr. Dion and the current government arrived at theirs. Today I was attempting to explain my position. It is my position based on an assessment of the facts, procedures, decisions and the arguments put before me. I should not presume to go beyond that. To the extent that this may have some impact on those senators here, I am grateful, but I shall have to leave it to others to address Mr. Trudeau's position.

Senator Cools: To put the question in another way, is the position that Senator Kroft and Mr. Dion have adopted consistent with Liberal Party history and the Liberal Party position for the last 100 years?

Senator Kroft: I am not capable of answering that question properly.

Senator Cools: That is a question that I am having enormous difficulty getting answered. Having been a loyal Liberal for several decades, I fail to understand how it is I never knew until recently that Canada could be divided in the way that is being proposed.

The Hon. the Speaker: Honourable senators, I must inform you that the 45-minute time period has expired.

Hon. J. Michael Forrestall: Honourable senators, I ask that the debate be adjourned in the name of Senator Fraser.

The Hon. the Speaker: It was moved by Senator Forrestall, seconded by Senator Beaudoin, that further debate be adjourned in the name of the Honourable Senator Fraser. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

• (1710)

Senator Cools: On a point of order, I would note that Senator Fraser is sitting right here. There is some confusion. Senator Forrestall has just moved the adjournment in Senator Fraser's

name, but Senator Fraser is sitting in her seat. Therefore, she could certainly have moved the adjournment herself.

Senator Forrestall: That is what I thought. That is why I sat still. It may very well be, honourable senators, that I misread Senator DeWare's handwriting. It looks like "Senator Fraser."

I would ask that the adjournment stand in my name.

The Hon. the Speaker: Honourable senators, a motion has been made and accepted.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, in readdressing the matter of the adjournment on Bill C-20, we should be understanding of the fact that, due to committee work, the Deputy Leader of the Opposition is not here, nor is the whip. I want to take pains to ensure that we act properly in the matter of the adjournment of Bill C-20. My impression was that the other side would adjourn the debate and that is what Senator Forrestall is proposing. Accordingly, I would ask for leave to rescind the motion of adjournment in the name of Senator Fraser so that the debate may be adjourned in the name of Senator Forrestall, which would be the normal course for us to follow in debate on a matter such as this.

Senator Forrestall: Would it not be a matter of my simply withdrawing my earlier motion?

The Hon. the Speaker: I shall admit, honourable senators, that the motion posed by Senator Forrestall while the other senator is here is not a normal procedure, but it is certainly not out of order. The request that we rescind the previous decision requires unanimous consent.

Is it agreed, honourable senators?

Senator Cools: I do not agree.

Senator Hays: Perhaps I could consult with the leader in the absence of the deputy leader.

If it is in order to deviate from the normal practice of adjourning the debate in the name of a senator on the opposite side, then the adjournment standing in the name of Senator Fraser is entirely in order as far as I am concerned.

Senator Cools: Honourable senators, I had not realized, when I raised my objection to the fact that Senator Forrestall had done what he did, that the motion had been duly carried. If the motion is duly carried then it must stand. One cannot rescind motions of this chamber by simple leave being granted. Let it be recorded that I shall not give my leave.

On motion of Senator Forrestall, for Senator Fraser, debate adjourned.

**CANADA TRANSPORTATION ACT
COMPETITION ACT
COMPETITION TRIBUNAL ACT
AIR CANADA PUBLIC PARTICIPATION ACT**

THIRD READING

Hon. Raymond J. Perrault moved the third reading of Bill C-26, to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence.

He said: Honourable senators, I had the privilege of introducing Bill C-26 in the Senate. I am pleased to rise in my place again today to endorse the bill as we begin third reading debate.

As honourable senators are aware, the bill is intended to enhance the existing legislative framework and contribute to ensuring a safe and healthy Canadian airline industry.

We are talking about the future of aviation in this country. We are served by two, or even more, outstanding airline companies. Canada has a worldwide reputation.

When the process of airline restructuring began almost a year ago, the government sought advice from various interested parties to ensure the development of the best possible framework for a restructured industry. The general public made its views known, and very vigorously, I should say, through thousands of letters not only to the Minister of Transport but also the Members of Parliament, whether they serve in the Senate or in the House of Commons.

We had a letter read earlier today from an irate traveller. Air Canada takes the position that it is going to take a while to work out all of the bugs and all of the problems. That may well be true, but we must have a means by which commuters can register their complaints and have them effectively dealt with. This is one of the points that we insisted on in the committee deliberations.

Honourable senators, the fact is that the Senate has played a major role in shaping this bill through the activities of our standing committee last fall and since the introduction of Bill C-26 by the Minister of Transport on February 17 this year. This has been a very painstaking and thorough study.

The result is a good piece of legislation. Perhaps it is not perfect, but it is a great start. It is a good bill that addresses the expectations of many stakeholders while preserving the principles of deregulation which have governed the domestic aviation sector since the year 1988. All the major stakeholders appeared in order to help our committee assess the value of this bill. There was good input not only from the government side of

this house but also from the opposition side. A very constructive attitude was demonstrated by participants.

The Minister of Transport with his officials, the Canadian Transportation Agency, the Competition Bureau and the Commissioner of Official Languages gave their perspectives on the bill and took questions from the committee members. They were very deeply probing questions.

The two major carriers, Air Canada and Canadian, and other carriers, both their affiliates and their competitors, including foreign competitors, the Air Transport Association, the Travel Agents Association, consumer advocacy groups, affected employee groups and the Association des Gens de l'air made presentations and answered questions.

I must point out that along the way I hope that full consideration is given to the rights of the existing pensioners. Some have contacted me, as I am sure that they have contacted other members of the committee. They told me that they were pioneers in the airline industry. In particular, pensioners from Canadian Airlines told me that their pension rights were derived many years ago and that they are apprehensive about the future of their pension plan. We should seek assurance that these long-term pensioners will be treated fairly.

Let me just recall for honourable senators how this legislation responds to the 19 recommendations made to the minister by our standing committee last fall. The undertakings negotiated between the Commissioner of Competition and Air Canada have resulted in the implementation of four of these recommendations. The commitments made by Air Canada to the Minister of Transport implements two of the recommendations. Bill C-26 not only makes the undertakings and commitments enforceable, it implements three of our recommendations.

You may also be aware that the Minister of Transport recently announced the liberalization of Canada's international air charter policy which implements another one of our recommendations.

For the rest, the government has not chosen the approach which we recommended as a result of our committee work, but we do know that all the issues we identified have been addressed. Members of our Senate Standing Committee asked many questions of those who appeared before them in order to ensure that the proposed legislation does meet the expectations and needs of those who will be most affected by it. Questions were asked not only with respect to Bill C-26 itself but also with respect to the draft regulations setting out anti-competitive behaviour in the Canadian airline sector. In our view, there is just nothing like competition in this industry.

The Standing Senate Committee on Transport and Communications in its report recommends adoption of this bill. I am pleased to propose speedy passage so that it can come into force as soon as possible. There is no doubt we need these new consumer and competition protection measures, and we need them right now.

Although the Standing Committee was prepared to support Bill C-26, members felt strongly about certain aspects of the impact of airline restructuring. The committee report includes a number of observations on which I shall say only a few words because I share these concerns as a member of the committee. There is concern about fares, both high and low. The whole area of setting fares seems to be a very mysterious process to many of us. I can buy a ticket in Vancouver and fly return to Manchester, England for \$550, and yet it costs more than \$3,000 to get from Vancouver to Ottawa. This is cause for at least mystification.

• (1720)

It can be said, of course, that the charter airlines make this process possible with the economy seat, which is true, but there are still some questions that have to be answered.

As I said, honourable senators, there is concern about fares, both high and low. You may have received complaints from people living in your area. If you receive complaints — and this applies to all of us, including myself, because I have already passed along some — let Air Canada know about the situation. They are establishing a complaint mechanism, which is supposed to help.

Honourable senators, the committee also expressed concern about service, especially service to smaller communities. There is also a concern about impacts on small airports. Committee members were also sympathetic to the concerns expressed by both the employees of Canadian Regional Airlines and the travel agent community. There are many questions that remain unanswered.

On the matter of official languages, the committee is urging the government and Air Canada to work more diligently “to promote in air transport in Canada a respect for linguistic equilibrium representative of Canadian reality, both as it applies to services, to clients and to the avoidance of discrimination in hiring practices.” This was a matter that was discussed in committee for a substantial length of time. We believe that these norms have to be established.

The committee intends to do further work to follow airline restructuring over the next while. It intends to review the proposed regulations dealing with anti-competitive behaviour and it intends to investigate the impacts on small airports.

The committee also urges that monitoring be taken seriously and that when remedial action is recommended that action be taken quickly. The passage of this bill will help to improve the current situation by firmly establishing the framework within which the industry will operate; at least we hope it will. If there is any deviation from quality and good service, action will be taken.

We believe that passage of this bill will set the rules of the game and provide a more certain environment for Air Canada and its new and existing competitors. Passage of this bill will help encourage the development of competition by offering

protection from anti-competitive behaviour on the part of the dominant carrier.

In this regard, we are already seeing evidence that the government’s approach is starting to work. The first few days of this integration process were an absolute nightmare from coast to coast. There were many difficulties in Toronto, as honourable senators are aware; indeed, there were difficulties in all of the provinces. However, we are now seeing evidence that the government’s approach is starting to work. Several existing carriers, both scheduled and charter, have begun their expansion or have announced plans to do so in the near future.

This is a fascinating process because there will be a competitive airline offering a quality of service — at least, they hope to establish such a level of service — comparable to Air Canada and offering the same kind of higher-class seats. Competition is out there, honourable senators.

The bill has provisions designed to deal with specific problems that consumers may face. This bill offers better protection with respect to pricing on monopoly routes, improved protection for domestic travellers with respect to terms and conditions of carriage, and protection for service to small communities. It requires Air Canada, where the demand warrants, to provide travellers with air services in both official languages.

The office of the air travel complaints commissioner — that is to whom all the mail setting out customer complaints should be forwarded — that will be created by this bill will have the power to review cases and mediate between the complainant and the airline involved. The complaint commission will probably have a site on the Internet as well.

Honourable senators, together with many other members of the chamber I support this bill. I believe that a strong vote in support of the bill will send a powerful signal to the industry and the travelling public that the government will play its proper role in a restructured airline industry.

By supporting this bill, honourable senators, we shall bring final parliamentary approval to legislation that will help to create a Canadian-controlled airline industry, one that will be able to take its place with the world’s biggest and very best — an airline industry that will serve all Canadians with high-quality service at competitive prices.

I thank all honourable senators on both sides of the house who have offered such constructive advice and suggestions so that we may create this great airline.

Hon. J. Michael Forrestall: Honourable senators, there are one or two observations that should be made before I join with my colleague in wishing this bill bon voyage. I want to deal for a moment or two with the observations made by the committee — observations that irritated me at the time; however, now that I have read them I think they are very sensible and I have come to see the light.

I wish to touch briefly on the draft regulations. Honourable senators, a poll taken in the last while and reported in the press today is less than flattering to our dominant carrier, and I think probably deservedly so. The Canadian flying public have had one heck of a two years. If it is getting better, it may be just because I fly Ottawa-Halifax and have the advantage of using Canadian every once in a while. I do not have to rely on Air Canada, no matter who owns both.

Finally, I should like to indicate that we shall keep a very close watch on the events over the next two years. We shall plead and urge strongly in this place for a full review of the legislation, and we all have reason to believe that the appropriate standing committee of the other place will want a full review of the legislation. I suppose that could be extended to include the government.

First, I wish to deal with anti-competitive acts and the regulations that have been drafted and will be available to the Competition Bureau in enforcing the clauses of this bill that are designed to protect against the gouging, overpricing and anti-competitive measures that usually come about when a dominant carrier, such as Air Canada, comes upon the situation that we have today. I should preface this remark with a brief story of WestJet going into Moncton, New Brunswick, as a good catchment area. It was attractive to WestJet for a number of reasons. One could attract customers from Charlottetown, Fredericton, Saint John, New Brunswick, from the Amherst and Springhill areas, and perhaps from even a little further than that. Air Canada noted this activity and proceeded to move swiftly by adding a significant number of additional seats. If that were not bad enough, for a young airline trying to get on in the eastern part of our country, Air Canada undercut WestJet's prices.

The point I want to make is that when this proposition was put to the assistant director of the Competition Bureau, he had this observation to make. He said that had the regulations proposed under this bill been in place, with respect to the actions of Air Canada, we would have been contemplating criminal procedures.

• (1730)

Honourable senators, I make that point because it loudly and clearly demonstrates the strength of the draft regulations. As Senators Perrault, Bacon and others on that committee have noted, whether this bill works will depend in large measure on the effectiveness of the Competition Bureau.

Senator Perrault: Hear, hear!

Senator Forrestall: Its effectiveness will be determined by the usefulness and strength of these regulations.

Anti-competitive acts provide for action where avoidable costs are somewhat hidden in order to gain a competitive advantage, such as increasing capacity on a route at fares that do not cover avoidable costs; ensuring that all costs must be included; or using a low-cost second brand carrier in a manner described above. In other words, one cannot do in the airline industry by one

means that which one cannot do directly, an old and well-understood maxim.

The commissioner went on to say that companies ought not to pre-empt facilities or services because of their size, stature or dominance in the field. These facilities or services are required for the operation of other airlines. Companies should not be pre-empted from takeoff and landing slots required for the operation of other carriers to the extent not governed by other regulations that have to do with the allocation of slots. That is a question that is still before the standing committee.

Other issues include commission overrides or other inducements, such as using the offer of unusual awards or going on alternate networks or other infrastructure or facilities for the purpose of and with the effect of eliminating or disciplining the competitors or impeding entry or expansion into the market. Suffice to say that it is the regulations that will make this act work.

At the early stages of consideration of this matter last fall, we on this side argued and found a great measure of support on the government side for reviewing the role of the Competition Bureau. We believe the bureau should be given the tools and authority to do swiftly what the Canadian Transportation Agency sometimes took months to do because of its structure.

Things in all disciplines move very rapidly today. Knowledge is expanding at unbelievable rates. The same is true in the airline industry. If there is an opportunity and one does not move to take it this afternoon, it will not be there tomorrow morning. We must find ways of making it easier and quicker to give direction to the airlines with respect to consumers' rights and their protections. As well, we must give them more open and freer routes.

There is cause for rulings on a variety of matters ranging from mergers through to rates and international carriage.

Honourable senators, your committee appended to its fifth report a series of recommendations. I hope that these are closely read because they indicate our concerns about both low fares and high fares.

With regard to high fares on routes where there is no competition, it is not altogether clear to the committee whether clause 4 of Bill C-26, which will replace section 66 of the Canada Transportation Act, will be sufficient to deal with unreasonably high fares. Only by observation and close scrutiny will we be able to determine whether we are right or wrong.

Witnesses described other anti-competitive issues that may necessitate a strengthening of the draft regulations on predatory pricing. The committee had serious concerns about the welfare of the employees of Canadian Regional Airlines as they wait for a resolution of their status. Should Air Canada not bring those employees back into the family, they have no protection whatsoever. This is not in keeping with the reputation of Canada and Canadian labour laws, good business practices or the common decency of parliamentarians who make the laws under which these people act.

God knows we have concerns about service. I have had 1,100 complaints about service over the last three or four months. One of the airlines called me up and asked if they could have copies of the complaints. I laughed at them I said, "Are you kidding? They are verbal. Have you been outside your door yet? Go and stand on the sidewalk, talk to someone about flying in airplanes around Canada, and you will get a taste of the mood of Canadians."

We heard about pricing and the cost of services at airports. Landing fees are going up and making things very difficult, just as with Canada Ports Corporation when they were converted a year ago. What happens to the municipality when it loses that certain and sure grant in lieu of taxation? If it loses that grant, it must rely on its income to make that the difference

We are also seeing a consolidation to a dominant carrier. Where 20 flights a day used to be flown, 11 flights are now expected to do the job. That means only 11 fees for landings and takeoffs. They have lost the revenues from the other nine landings and takeoffs. That revenue paid local taxes, services, firefighting and so on.

Finally, I reiterate that this proposed legislation should be monitored closely. There are many questions on which the standing committee will be interested.

• (1740)

All agencies in government concerned with the offering of good travel arrangements to the Canadian public should monitor and report on the health of the industry.

It is quite a scene out there, honourable senators, probably the greatest change in aviation in Canadian history — perhaps even overtaking the addition of jets to the old propeller fleet — but we shall get through it. I am hopeful; I am not a pessimist about this at all. However, I do think it is going to be hard on the travelling public, and whatever we can do to make it easier, we should. One of the things we can do is pass the bill, get the regulations in place, and monitor the situation very carefully.

It has been a privilege working with you, Madam Chair, and with you, Senator Perrault.

[Translation]

Hon. Roch Bolduc: Honourable senators, I attended only one meeting of the committee that reviewed this bill. I had been told that there was a problem regarding, among others, the Association des Gens de l'air. I listened carefully to Mr. Martel, the association's representative, and I believe that his comments made sense. The company will have to make a special effort when hiring personnel. Honourable senators will remember that

there were problems 20 years ago. After a lot of efforts, the percentage of francophones pilots climbed to 15 per cent.

A certain level of representation is to be expected from a company that provides services to the public. I am not in favour of quotas and I am not saying that if francophones account for 25 per cent of the population, then they should account for 25 per cent of all pilots. I would not go that far. However, in a company of this magnitude, the staff must reflect the population to some degree. For example, 5 per cent of the pilots at Canadian Airlines were francophones. That is indecent! I realize that the company did not serve all of Quebec, but such a percentage demonstrates an almost obvious kind of discrimination.

I am more or less the spokesperson for the Association des Gens de l'air in saying that there is a problem and that it is important that management at Air Canada take a serious look at this situation. The representative of the Association des Gens de l'air was not resorting to blackmail. He was a very decent person. You heard him. Senators Bacon and Forrestall were there. In fact, Senator Joyal would probably be in a better position than I am to discuss this issue, since he attended the committee meetings.

We are told that, in the case of a service of this kind to the public, competition will come with time. I am confident that we are promoting the creation of a number of Canadian companies in the airline industry. That is desirable. I know that there are companies in Western Canada that are doing rather well, with flights to Toronto and eventually further east, but we should not have to wait five years to have true competition. There was not only a management problem with Canadian Airlines, there were also other problems.

I do not wish to go into my personal experiences with them, but I have had enough! I am not a nationalist when it comes to aviation. I am quite happy to use Eastern Airlines or Northwest. I am proud of the Canadian flag but, if service is lacking, it will have to be provided using other companies. Air Canada must be aware of this at all times! For example, this week, there are no parliamentarians left in the other place and so there are no more 8 p.m. flights from Ottawa to Quebec City. It is 300 miles away! We are not going to Timbuktu! We are going to Quebec City! After 5 p.m., there are no flights out!

From 1954 to 1960, I taught at the University of Montreal. Every Thursday morning, I flew to the University of Montreal and it cost me \$17 return. Now, it costs \$600 to come to Ottawa. So there is a problem somewhere. I shall leave you with that, honourable senators. I do not wish to take up more of your time with it.

The Hon. the Speaker pro tempore: Honourable senators, the Honourable Senator Perrault, seconded by the Honourable Senator Joyal, has moved third reading of the bill. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to, and bill read third time and passed.

[English]

CANADIAN TOURISM COMMISSION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Catherine S. Callbeck moved the second reading of Bill C-5, to establish the Canadian Tourism Commission.

She said: Honourable senators, I am happy to rise today to speak at second reading to Bill C-5, to establish the Canadian Tourism Commission. The goal of this legislation is to establish the Canadian Tourism Commission as a Crown corporation. It is presently a special operating agency located in the Department of Industry.

In telling you why this piece of legislation has my full support, I shall give you some background into the Canadian Tourism Commission and then tell you why the changes in this legislation are necessary.

The Canadian Tourism Commission was developed in 1995. It deals with the promotion and marketing of Canada as a desirable travel destination both in the country and internationally. Since its inception, the commission has been a success story in every respect. For most of the period since 1994, direct employment in the industry has grown faster than the national average. With last year's creation of 6,000 direct jobs, employment in the sector has now reached 525,000, and forecasts continue to be very positive. Between 120,000 and 130,000 new jobs are expected as a result of tourism between now and the year 2005.

Around the globe, tourism is also very big business. It is one of the world's fastest-growing industries, accounting for U.S. \$444 billion internationally in annual revenues, and this figure is expected to grow at an annual rate of 7 per cent over the next five years.

Thanks in large part to the work of the Canadian Tourism Commission and its private-sector and government partners, Canada is getting a good slice of this business and will get more. If Canada achieves a 1 per cent increase in the share of international arrivals, it would mean 6 million more visitors to Canada, \$5 billion more in annual revenues, and 158,000 new jobs. Honourable senators, there is no doubt that Canada can gain the extra share of the market. The most recent figures on the success of this marketing effort speak for themselves.

• (1750)

Canada's travel account deficit decreased to \$1.7 billion in 1999, down 48 per cent from \$3.3 billion recorded in 1995, when the commission was formed.

The trade deficit gap in this area is being closed. Last year, the total tourism spending in Canada reached \$50.1 billion.

The key to the commission's success was the facilitation of partnering and cooperation among the various stakeholders —

federal, provincial, territorial, and business partners. This unique public-private collaboration has delivered valuable tourism marketing and information-sharing initiatives that have helped rejuvenate the tourism sector and Canada's appeal as a tourist destination.

Unfortunately, the current status of the commission as a special operating agency of the Department of Industry imposes legal and administrative restrictions which now prevent it from achieving its maximum potential as a partner.

Making the commission a Crown corporation will give it the legal, financial, managerial and administrative flexibility it needs to work more effectively with its partners. As a Crown corporation, the commission will be able to function as a fully integrated business entity, with the capacity to make its own decisions, to set its own business priorities, and to move more quickly to implement them as market needs dictate.

It is because the commission's work is closely tied into the private sector that it is necessary for it to operate in a more businesslike way, to have the administrative flexibility to function as a more businesslike partner.

Let me explain this point further by telling you what the commission cannot do as a special operating agency. It cannot enter into partnership contracts and manage partners' funds for joint undertakings; keep funds year over year, except for very limited carry-overs; keep revenues generated by merchandising and reinvest them in programs — such funds now become part of the government's Consolidated Revenue Fund — and open bank accounts, including accounts in foreign countries, to pay locally engaged staff and marketing contractors. The commission must now pay the Department of Foreign Affairs and International Trade to use its accounts or issue cheques in Canadian funds, which are not always accepted by foreign banks.

Bill C-5 is the result of extensive consultations with all the participants, and that includes staff unions. The corporation will continue to be subject to the usual federal statutes, such as the Official Languages Act, the Access to Information Act and the Privacy Act.

The commission's professional and highly dedicated staff have contributed significantly to the successful work of the commission over the last five years. With the changeover to Crown corporation status, the employees would come under the Canada Labour Code. This means the commission would be free to hire the professional expertise it needs to respond to marketplace challenges as and when needed because it would not be subject to the complexities of the Public Service Employment Act.

Since the commission was established, Canada has steadily moved up in global ranking as a tourism destination and is now in eighth place in international tourist arrivals, and ninth in international tourism revenues.

All of us know that Canada is the best country in the world in which to live. If honourable senators give their consent to this legislation, the rest of the world will know that Canada is the best country in the world to visit.

On motion of Senator Kinsella, for Senator LeBreton, debate adjourned.

SALES TAX AND EXCISE TAX AMENDMENTS BILL, 1999

SECOND READING—DEBATE ADJOURNED

Hon. E. Leo Kolber moved the second reading of Bill C-24, to amend the Excise Tax Act, a related Act, the Bankruptcy and Insolvency Act, the Budget Implementation Act, 1997, the Budget Implementation Act, 1998, the Budget Implementation Act, 1999, the Canada Pension Plan, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Act, the Income Tax Act, the Tax Court of Canada Act and the Unemployment Insurance Act.

He said: Honourable senators, I should like to first thank honourable senators for allowing me to speak at second reading of Bill C-24.

The goals and opportunities underlying the legislation before us can be stated quite succinctly — to make our tax system simpler and fairer, not only for individual Canadians but for Canadian businesses as well.

Another objective of government that is supported by this legislation is to sustain and enhance our federal tax system in a manner that promotes federal-provincial cooperation and harmonization.

I trust that honourable senators would agree that few issues affect us as much as the operation of our federal taxation system. Taxes affect every Canadian and every family, every company and every organization. It impacts our standard of living as individuals and our ability to compete and grow as a nation.

The government recognizes that tax reduction is essential to improve living standards. It increases productivity, creates jobs and leaves more money in the pockets of Canadians. This is why, with the deficit eliminated and the debt burden falling, the government took action to begin reducing the burden of personal income taxes.

However, broad income tax reduction is not, and cannot be, the only area for action as we map out a plan for greater prosperity for all Canadians in the 21st century. From the start of its first mandate, the government has been active in ensuring that

it provides a tax system that is fair. It has also worked towards a tax system that eliminates unnecessary complexity.

Further, the government wants to be sure that the tax system provides targeted assistance to those sectors and groups who deserve it — for example, charities and persons with disabilities. These are the objectives underlying the legislation before us. Bill C-24 does just that.

While this bill is primarily aimed at improving the operation of the goods and services tax — the GST — and the harmonized sales tax — the HST — it also contains other important proposals relating to specific taxes on certain products.

In this regard, Bill C-24 contains measures with respect to taxation of tobacco products. The government is committed to reducing smoking rates in Canada, particularly among younger Canadians.

It is also committed to providing leadership in the area of tobacco control. In that regard, honourable senators are no doubt aware of the National Action Plan to Combat Smuggling which was launched in 1994. The plan has had a significant impact on contraband so that the government has been able to increase taxes on tobacco products in 1995, 1996 and 1998, in cooperation with participating provinces: Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island. The government has monitored each of these increases slowly to ensure that they do not result in renewed smuggling activity.

Today's legislation puts in place another increase of sixty cents in federal excise taxes per carton of 200 cigarettes on sale in Ontario, Quebec, Nova Scotia, New Brunswick and Prince Edward Island, the five provinces that are our action plan partners. These provinces are also increasing their taxes on cigarettes by comparable amounts.

Excise taxes on tobacco sticks will also be increased in Ontario, Quebec, New Brunswick and Prince Edward Island, re-establishing a uniform national tax rate on tobacco sticks for sale in all provinces and territories.

Furthermore, this bill proposes to make permanent the current 40 per cent surtax on the profits of tobacco manufacturing.

On a related issue, as outlined in the February 1999 federal budget, Bill C-24 contains measures to implement a reduction in the annual exemption threshold for the tax on exported tobacco products.

• (1800)

The intent of this measure is to reduce the supply of Canadian-made tobacco products in export markets that could potentially be available to smugglers. The proposals contained in this bill relating to the taxation of tobacco products reaffirm the government's comprehensive commitment to reducing tobacco consumption in Canada while maintaining vigilance in combating the level of contraband.

An important component of Bill C-24 reflects the government's responsiveness to the health and social needs of Canadians. For example, the government recognizes that many Canadians are providing care for family members, very often elderly parents or a disabled child. Bill C-24 proposes to provide a sales tax exemption for respite care. This measure exempts the services provided for the care and supervision of individuals who have limited capacity for self-supervision and self-care due to an infirmity or disability. For those Canadians who are striving to meet the growing demands of caring for family members with an infirmity or disability, this proposal will enhance federal support.

Senator Prud'homme: It is six o'clock.

Senator Kolber: Is there a question somewhere? I did not interrupt you.

Senator Prud'homme: It is not me.

The Hon. the Speaker *pro tempore*: Honourable senators, it is my duty to advise you that it is six o'clock.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should like the consent of honourable senators to not see the clock for the completion of Senator Kolber's speech. As well, there are two items after his that I should like to deal with. If we can deal with them, it would be a big help to those of us who wish to move the agenda of the chamber forward. Accordingly, I ask for leave not to see the clock.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I was in the midst of making copious notes on Senator Kolber's speech. I certainly want to complete my note taking; therefore, we agree.

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed that I not see the clock?

Hon. Senators: Agreed.

Senator Prud'homme: Honourable senators, I did not want to be unkind to Senator Kolber. I just wanted to indicate to him that Her Honour was on her feet.

Senator Kolber: For those Canadians who are striving to meet the growing demands of caring for family members with an infirmity or disability, this proposal will enhance federal support.

With respect to individuals with disabilities, the government is sensitive to the special needs of these Canadians and remains committed to providing meaningful assistance. The government has introduced numerous measures in past budgets to assist these individuals. Bill C-24 builds on those initiatives.

The proposals contained in Bill C-24 extend sales tax relief to the purchase of specially equipped motor vehicles for

transporting individuals with disabilities. The proposed sales tax rebate will ensure that all individuals and organizations get tax relief on the additional costs of purchasing vehicles that meet their special needs.

Other measures in the area of health care contained in this bill include the continuation of the Goods and Services Tax and Harmonized Sales Tax exemption for speech therapy services. Under the GST and the HST, the list of exempt health care providers is made up of those that are regulated by the health care profession in at least five provinces. The proposals contained in this bill will allow the speech therapy profession more time to meet the eligibility requirements for the provision of tax-exempt services.

The bill also ensures that providers of osteopathic services are exempt from sales tax. In addition, Bill C-24 corrects an inequity with respect to providers of psychological services by ensuring that the sales tax does not discriminate against duly qualified psychologists.

I mentioned in my introduction that the government is committed to a fair tax system for Canadians. Bill C-24 reflects that commitment in a number of areas.

In regard to charities, the government recognizes the important role played by charitable organizations in helping Canadians and in enriching our communities. This bill addresses the special circumstances faced by charities whose main purposes include the provision of care, employment, employment training or employment placement services for individuals with disabilities. Specifically, this bill provides these charities the capacity to compete on an equal footing when selling goods and services to GST-registered businesses.

Bill C-24 also refines the rules for the streamlined accounting method for charities. In addition, it implements the decision by the Government of Newfoundland and Labrador to extend the 50 per cent rebate of the provincial portion of the Harmonized Sales Tax, which is already available to charities in that province, to certain public service bodies such as hospitals that are also charities.

The extended rebate would be available to those entities in relation to their activities undertaken in their capacity as charities. For example, a hospital authority in Newfoundland that is a charity might also operate a nursing home. The proposed amendment would entitle the hospital authority to a 15 per cent rebate of the HST incurred on expenses related to the nursing home.

A number of amendments contained in Bill C-24 will ensure consistency and fairness in the application of the Goods and Services Tax and Harmonized Sales Tax in a number of key areas. For example, this bill contains amendments aimed at clarifying the sales tax treatment of transactions between natural resource producers and exploration companies. Amendments such as these are aimed at clarifying and refining the application of our sales tax system.

I should like to take a moment to point out that the amendments in this proposed legislation were developed in consultation with the tax and business communities. As I mentioned earlier, this reflects the government's ongoing commitment to make the tax system fairer, more efficient and easier for businesses to comply with.

An illustration of the collaborative process between the federal government and businesses is in the energy sector. This bill proposes a number of changes to streamline the operation of the Goods and Services Tax and the Harmonized Sales Tax in that sector. For example, these proposed measures facilitate export transactions that involve exchanges of oil and gas between Canadian and foreign suppliers. The economy of today is increasingly global in nature. The changes proposed in this bill will help to ensure that Canadian businesses remain competitive in the national marketplace.

With respect to other international commercial transactions, this bill also proposes to make air navigation services provided to carriers tax free in relation to international flights and to refine the rules for exports of goods by common carriers.

In terms of the Visitors' Rebate Program, I should like to take this opportunity to mention that the federal government is well aware of the importance of the travel and tourism industry to Canada's economy. The government has helped to promote Canada as a tourist destination and to support the tourism industry in the creation of employment. An integral part of the federal government's support for the travel and tourism industry in Canada is the Visitors' Rebate Program, whereby the government provides rebates of the Goods and Services Tax and Harmonized Sales Tax to non-residents on eligible goods exported from Canada, short-term accommodation and certain goods and services used in the course of a foreign convention.

As part of a review of the Visitors' Rebate Program, consultations with the tourism industry indicated that the program is generally viewed as an important tool in promoting tourism, particularly the accommodation and convention measures. As a result of the review, the 1998 budget contained several proposals to improve the Visitors' Rebate Program.

Bill C-24 proposes a number of enhancements to the design and delivery of the Visitors' Rebate Program to promote Canada further as a destination for tourists and a place to hold conventions, for example, by reducing the GST and HST costs associated with providing conventions to non-residents.

On the subject of tourism, this bill also proposes changes aimed at providing consistent tax treatment between tax-free international transportation services and various separate charges that relate to such transportation.

Another change will eliminate the requirement that payment for air travel from the United States to Canada be tendered

outside Canada in order for the transportation service to be tax free.

I should like to take a moment to mention that the federal government recognizes the importance of consulting with the business community in improving the operation of our sales tax system. In that regard, Bill C-24 contains a number of proposals to improve the rules relating to certain business arrangements and to ensure that the legislation accords with the policy intent.

For example, in the area of financial services, as well as clarifying certain sales tax issues, Bill C-24 provides a more level playing field in the retail debt sector by repealing bad debt relief for closely related financing companies.

In response to industry concerns, this bill also proposes an important measure that will correct an inequity with respect to multi-employer pension plans.

• (1810)

The bill proposes that a rebate be provided to trusts governed by such pension plans, which will place them on a comparable footing with single-employer pension plans with respect to the sales tax they bear. I want to assure honourable senators that the government continues to work toward improving the administration and enforcement of our sales tax system.

Bill C-24 amends several provisions in these areas to update them relative to current administrative practices. Moreover, the bill proposes to achieve greater harmonization of certain administrative and enforcement provisions in the various tax and duties statutes. This bill also contains proposals to improve the efficiency and effectiveness of the assessment, appeals and collection provisions overall.

With respect to split-run tax and tariffs, I mentioned earlier that Bill C-24 contains measures relating to other specific levies on certain products. In accordance with the 1997 decision of the World Trade Organization, this bill contains the amendment that repeals the provisions relating to the excise tax on split-run editions of periodicals.

With respect to customs tariffs, the bill implements proposals to increase certain duty and tax exemptions for persons returning to Canada after a minimum period abroad. These proposals will make it more convenient for travellers to clear Canada Customs. This is just another example of the steps we have taken to improve service for visitors and Canadians returning to Canada.

The government remains committed to enhancing aboriginal self-government and has indicated its willingness to put into effect taxation arrangements with First Nations interested in exercising tax powers. In this context, through the Budget Implementation Acts of 1997, 1998 and 1999, the government introduced legislation enabling certain First Nations to impose GST-like taxes on specific products, such as alcoholic beverages, fuel and tobacco products.

This bill proposes technical amendments to the acts I just mentioned to enhance the harmonization of First Nations sales taxes with the GST and to ensure that the definitions contained in these acts are consistent with definitions used in other federal statutes.

In conclusion, the measures contained in Bill C-24 that I have outlined here today propose to refine, streamline and clarify the application of our tax system. At the same time, this bill responds to social issues that are important to Canadians. I therefore urge honourable senators to support Bill C-24.

On motion of Senator Kinsella, for Senator Stratton, debate adjourned.

CRIMES AGAINST HUMANITY AND WAR CRIMES BILL

SECOND READING—DEBATE ADJOURNED

Hon. Peter A. Stollery moved the second reading of Bill C-19, respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts.

He said: Honourable senators, I shall speak to second reading of Bill C-19, the Crimes Against Humanity and War Crimes Act. It is a great privilege for me to speak about the merits of this bill, for it is one that has import not only to Canadians but also to every individual of the global community.

Bill C-19 has two purposes. First, it will strengthen the legislative foundation for criminal prosecutions in Canada of genocide, crimes against humanity and war crimes; and, second, it will implement in Canada the Rome Statute of the International Criminal Court. This will allow Canada to join the other nations of the world that have already ratified the Rome Statute, which was adopted by delegates of the Rome Diplomatic Conference on July 17, 1998. Once 60 countries have ratified the Rome Statute, a permanent international criminal court will be created in the Hague that will hold individuals who commit the most offensive crimes accountable for their acts.

The establishment of the ICC will be a watershed moment in the history of the world. War and violence have been constant presences in our lives. The ICC will, unfortunately, not be able to scourge the world of these evils, but it will, once established, be a permanent reality that will watch over the international community to protect those basic values common to all peoples. It will also provide the international community with an effective, non-coercive, non-military institutionalized peace enforcement mechanism. The ICC will be an effective tool available to the global community in its fight against tyranny and repression.

The brutalities of the 20th century have dictated that we find appropriate means to counter the atrocities that have become all

too familiar to us. The 20th century has seen many instances of genocide, of war crimes, and of crimes against humanity. We have also seen this century new and unfortunate trends, such as the targeting of civilian populations. Whereas once the casualties of war were the combatants, it is now innocent civilians who make up the majority of casualties in modern conflicts.

The ICC will provide humanity with more than a moral imperative; it will provide humanity with a permanent institution, the sole mandate of which will be to ensure that individuals who commit the most reprehensible crimes known to humanity will have to answer for their crimes. The international community has in the past reacted with indifference or inaction in the face of mass murder, rape and torture. The ICC will ensure that the resulting climate of impunity will be replaced with a culture of accountability.

Chivalry, the ideals of which have been modernized and codified in international law, will henceforth be enforced by a capable institution supported by the international community. The ICC will ensure that individuals will not escape justice. These individuals will instead answer to a court that will have the jurisdiction, mandate, power and resources to investigate and prosecute individuals who act contrary to the rules that the international community has agreed upon through the Rome Statute.

The permanence of the ICC provides the world with an ever-present mechanism of justice that will have a deterrent effect and assure that no individual henceforth will be able to feel safe in committing genocide, war crimes or crimes against humanity.

The provisions of the Rome Statute set a very high standard for international justice. For instance, no individual, not even an acting head of state or senior government official, will be able to escape the jurisdiction of the ICC if there is sufficient evidence that they committed one of the egregious crimes outlined in the statute. This signifies the overwhelming and unprecedented commitment to universal justice that nations will make when they ratify the statute.

The provisions of the Rome Statute, however, succeed in achieving this commitment to universal justice without infringing on the sovereignty of nations, which has been a fundamental principle of statehood since the 1648 Treaty of Westphalia. A nation's sovereignty is protected through the principle of complementarity. Complementarity provides that individual countries will be responsible for the prosecution of individuals charged with crimes of genocide, crimes against humanity, or war crimes. It is only in those instances where a nation is unwilling or unable to investigate or prosecute someone charged with the most egregious crimes that the ICC will become responsible for that case. In a perfect world, therefore, the ICC would hear no cases; rather, it would serve as the institution that vigilantly watches over the world and ensures that all countries adhere to the highest standards of international law.

Our legislation, which has been heralded by human rights NGOs as being model legislation, is in fact an example of the domestic legislation that will henceforth be the norm of the community of nations.

As we all know, honourable senators, we do not live in a world that is even close to being perfect. I only have to mention the recent tragedies in Rwanda and the former Yugoslavia and the still-developing tragedy in Sierra Leone to demonstrate that our world continues to serve witness to atrocities whose magnitude of depravity is difficult to fully appreciate.

The ICC will, I trust, prosecute the individuals who not only commit atrocities but those who profit from the commission of these heinous acts as well. This will be accomplished through provisions in the article that provide that individuals who profit from or are in any way complicit in the commission of genocide, war crimes or crimes against humanity would also be subject to prosecution for their contribution to the commission of atrocities.

I have mentioned that the ICC will serve justice blindly. I think it is important to reiterate this point and to emphasize that everyone, regardless of rank, status or citizenship, will be subject to the jurisdiction of the court. The ICC will be a neutral court and will not be subject to any agenda or political machinations. A number of checks and balances have been put in place to ensure that the court's credibility and integrity are beyond reproach.

Among the more important provisions is that the ICC's prosecutor and its judiciary will meet the highest professional standards and will be elected by an assembly of member states parties. The ICC's judiciary will be composed of 18 judges, and no nation may have more than one judge at any one time.

• (1820)

The ICC will also be completely independent of any higher body, including the UN. This will ensure that the political wrangling of the Security Council will not impair justice. The independence of the ICC is one of the improvements over the war crime tribunals that were established in response to the travesties committed in the former Yugoslavia and Rwanda. While these tribunals were a step forward in the search for justice, they had certain weaknesses including substantial start-up costs and delays. These ad hoc tribunals were also reactive in nature and had no deterrent value. The ICC is a marked improvement over the ad hoc tribunals.

Bill C-19 is reflective of the most progressive and meaningful advancement that has perhaps ever occurred in the quest for universal peace at the international level. The quest for this elusive and some would say Utopian peace has caused much ink to be spilled and much rhetoric to be eulogized. Unfortunately,

the international community has always been unable to make its idealistic aspirations a reality. The ICC, however, once 60 countries have ratified the Rome Statute, will become a reality and it will serve the interests of those individuals who have written, spoken and prayed that peace would one day be a reality to all people. Canadians should be proud of our country's commitment to peace that will be made once Canada ratifies the Rome Statute.

Bill C-19 would ensure that Canada's ability to comply fully with the provisions of the Rome Statute is met. It ensures that consequential amendments are made to other acts. For example, it would replace the current war crimes provisions in the Criminal Code by creating new offences of genocide, crimes against humanity, war crimes and breach of responsibility by military commanders and civilian superiors.

New offences would also be created to protect the administration of justice of the International Criminal Court as well as the safety of judges, officials and witnesses. New proceeds of crime offences and mechanisms to enforce the orders of the ICC for the restraint and forfeiture of assets are created. Money obtained would be paid into the Crimes Against Humanity Fund, established by the proposed legislation, and may be distributed to victims of offences under the proposed legislation or to the ICC.

Bill C-19 includes offences to protect the integrity of the processes of the court and to protect judges and officials of the ICC as well as witnesses. In particular, it includes offences of obstructing justice, obstructing officials, bribery of judges and officials, perjury, fabricating or giving contradictory evidence, and intimidation. Witnesses who have testified before the ICC would be protected under the Criminal Code from retaliation against them or their families.

Bill C-19 would also ensure that the possession and laundering of proceeds from these new offences would also be offences. This would ensure that proceeds for the worst criminal offences, like genocide, crimes against humanity or war crimes located in Canada could be restrained, seized or forfeited in much the same way as proceeds from other criminal offences in Canada. The proposed legislation and the creation of the ICC demonstrate that Canadians and human kind are hopefully progressing.

Carl von Clausewitz, the great 19th century Prussian military strategist, once remarked that "war is a continuation of politics by other means." Clausewitz, however, lived in a time when might was right, when the *realpolitik* was the norm in international relations.

Since that time, we have seen many developments in international relations designed to bring peace to the world. We have seen the development of international law, the adoption of the Geneva Conventions, the creation and demise of the League of Nations. We have also seen the creation of the UN, which has given us, among other things, the Universal Declaration of Human Rights, a document drafted by a Canadian, John Humphrey.

All these initiatives have not led to peace. Despite these institutions, laws and documents, violence continues to be pervasive in our world. The ICC goes beyond principles. We hope that it will be an institution that will not be subject to political haggling. The Rome Statute is not a lofty document that is unenforceable. The ICC is different. It recommends the evolution of global civility and offers the world real hope that all people will one day know the peace that we as Canadians perhaps too often take for granted.

The ICC will help in the possibility that power as a means to an end will, in the future, become obsolete. The ICC is illustrative of the ability of nations to come together and develop institutions dedicated and devoted to peace and justice.

I am proud of Canada's long-standing commitment to peace and our contribution to ensuring that the ICC becomes a reality. Bill C-19 is Parliament's contribution to ensuring the creation of the ICC. Our ratification of the Rome Statute will be another statement to the global community of Canada's commitment to innovative solutions to our world's problems. Once Canada ratifies the Rome Statute, we shall join the other 12 nations who have already ratified the treaty.

I shall now take a moment to congratulate the Government of Sierra Leone, which, this week in New York, announced that they have domestically ratified the Rome Statute and that they would be ratifying the statute very soon. This means that once they deposit the instruments of ratification, they will become the 13th nation to ratify the statute.

This is a positive and important development for Sierra Leone and its beleaguered people. Sierra Leone has been the focus of substantial media coverage as of late and, unlike today's announcement, the media coverage has focussed exclusively on images that would offend any person. The images that have become ubiquitous in Sierra Leone include those of countless women and children walking the streets with no hands, young girls nursing babies that are the result of rape committed by rebel soldiers, and the stories of how the butchery that has been ongoing in that country has been financed by the trade in diamonds.

The individuals who committed crimes against humanity in Sierra Leone did so because they felt that they were above the law. Because they had the guns, they felt powerful and thought they could act with complete impunity. These individuals were mistaken. The ICC will not allow these cowardly criminals to escape justice. Instead, the ICC will be able to prosecute them and to ensure that justice is served.

The climate of impunity that has existed and contributed to countless tragedies will be replaced by an era of accountability. Those people who felt safe hacking off the hands of children, who felt it was their right to rape young girls and women, and those corporations who felt that it was their prerogative to do business with those who commit mass murder, rape and torture, will learn that the international community will not stand for their inhumane behaviour any longer.

In introducing Bill C-19, the crimes against humanity and war crimes bill, I hope that I have adequately conveyed its importance. This bill will ensure that Canada plays its part in replacing the climate of impunity that has victimized humanity with an era of accountability. It is important that we seriously consider this bill because it represents Canada's commitment to global peace and universal justice.

Honourable senators, I am pleased to support this bill at second reading.

Hon. Sheila Finestone: Honourable senators, the dawn of the new millennium has brought with it great opportunity and great challenge. The end of the Cold War destroyed the walls of antagonism and mistrust that divided the world. Our ability to build this understanding hinges not only on the prospect for global peace in the new century, but also in our involvement in deliberations on complex issues to pave the way and adopt certain blueprints for our cooperation into the next century and presents an important example, that is, the International Criminal Court.

The ICC promises to provide the missing link in the international justice system, remedying the situation where it was easier to bring someone to justice for killing one person rather than for 1,000.

At the beginning of the 21st century, there is a compelling need to undertake a comprehensive review of the application of the principles of international legitimacy with fairness and justice. If we genuinely believe that justice is a basic element to life, we must admit that the absence of justice leads to the total breakdown of all the principles and values in the lives of people.

• (1830)

Bill C-19 identifies one of the main challenges facing humanity and recommends ways to meet those challenges. As national parliamentarians represent the people and act on their behalf within their countries in international affairs and, more than that, through our involvement in the process of ratification of international legal instruments, we are actively participating in the international diplomatic process. We surely recognize that ratifying international treaties can have a long and lasting impact on global politics and on the course of negotiations.

Honourable senators, we shall make the progress we need only if people such as you and I, in addition to states, are involved. Parliamentarians are uniquely positioned to contribute. As representatives of the people and of civil society in general, we can bridge the gap between values and laws. It falls to us, for example, to ratify such essential international agreements as the Rome Statute of the International Criminal Court, which gives us power and duty in equal measure. The International Criminal Court will presage a culture of accountability as an antidote to a culture of impunity. Ultimately, progress at the international level will depend to no small extent on how we address such issues nationally through our Houses of Parliament.

The establishment of the International Criminal Court that will bring to justice perpetrators of crimes against humanity has been a priority of the Canadian government. Canada has been active in the process leading up to the adoption of the Rome Statute. A Canadian official chaired the preparatory conference, Ambassador Kirsch of Sweden.

Senator Roche and Senator Andreychuk have been very active on this file, as has Warren Allmand, who brought to us a great deal of interest and enthusiasm for this approach. We, along with the Inter-Parliamentary Union and Parliamentarians for Global Action, held a very interesting open meeting in the Senate to hear from Ambassador Kirsch. I am very pleased that this bill was brought forward.

Honourable senators, Bill C-19, an act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, is before us at a historic moment of remembrance and reminder, of witness and warning, at this fiftieth anniversary of the codification by the United Nations General Assembly in 1950 of the Nuremberg principles, which are symbol and substance, source and inspiration, of the revolution in international human rights law in general and international humanitarian law in particular.

The ICC will have juridical authority to indict individuals from any global killing field and, unlike the ad hoc character of the Yugoslavian and Rwanda war crimes tribunals, the jurisdiction of the ICC will not be chronologically or geographically limited.

It took the globalized horror of the killing fields of the 1990s — the horror of Bosnia, the agony of Rwanda, the brutalized women and children of Sierra Leone and Sudan, the emergence of the unthinkable, ethnic cleansing, and the unspeakable, genocide, as paradigmatic forms of armed conflict in the 1990s — to give the idea of an international criminal court the moral compellability and sense of urgency that it warrants.

Honourable senators, Bill C-19 is designed to implement in Canada the statute for an ICC, to provide a Canadian legislative foundation for the prosecution of war criminals so as to ensure that Canada will not become a haven for war criminals past or present, and to serve as an international model for Nuremberg legacy legislation.

On motion of Senator Kinsella, for Senator Andreychuk, debate adjourned.

REPORT OF JUDICIAL COMPENSATION AND BENEFITS COMMISSION

MOTION TO REFER TO THE LEGAL AND CONSTITUTIONAL
AFFAIRS COMMITTEE ADOPTED

Hon. Dan Hays (Deputy Leader of the Government), pursuant to notice of June 19, 2000, moved:

That the Report of the Judicial Compensation and Benefits Commission, dated May 31, 2000, tabled in the Senate on June 15, 2000, be referred to the Standing Senate Committee on Legal and Constitutional Affairs, pursuant to subsection 26(6.1) of the Judges Act.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, it being later than our normal time of adjournment on a Tuesday, I should like to ask the consent of honourable senators to allow the remaining items on the *Order Paper* and *Notice Paper* to stand in their place.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h), moved:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 21, 2000, at 1:30 p.m.;

That at 3:30 p.m. tomorrow, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate;

That should a division be deferred until 5:30 p.m. tomorrow, the Speaker shall interrupt the proceedings at 3:30 p.m. to suspend the sitting until 5:30 p.m. for the taking of the deferred division; and

That all matters on the Orders of the Day and on the Notice Paper, which have not been reached, shall retain their position.

Motion agreed to.

The Senate adjourned until Wednesday, June 21, 2000, at 1:30 p.m.

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CANADA

Debates of the Senate

2nd SESSION

• 36th PARLIAMENT

• VOLUME 138

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 21, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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THE SENATE

Wednesday, June 21, 2000

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

The Hon. the Speaker: Honourable senators, I should like to draw to your attention that I already have six names on my list for statements. I remind you that there is a three-minute limit for each statement, and I shall have to exercise a strict control on those who make statements. I ask senators to please follow those directions.

FAREWELL REMARKS

Hon. Calvin Woodrow Ruck: Honourable senators, as my term in Ottawa draws to a close, I wish to express my thanks to all of those who have helped me along the way. I came here knowing very little, if anything, about the operations on Parliament Hill. My time spent here has been a wonderful experience. My wife has been with me all the way. She has been my right hand and she has done a very good job.

I have learned a great deal about the federal government in Ottawa. As a boy growing up in Sydney, Nova Scotia, I was always aware of the Liberal presence. Many Cape Bretoners, for whatever reason, were Liberals. However, when people asked me what party I supported, I could not say because I had little experience in politics.

My experience here has been very good. I have met some wonderful people who helped me along the way. I trust and pray that the Liberal Party will continue to be a light shining here in Ottawa. The party has made a difference, and I am sure it will continue to do so in the best interest of all Canadians.

Hon. Senators: Hear, hear!

• (1340)

THE SENATE

COMMENTS BY LEADERSHIP CANDIDATE FOR ALLIANCE PARTY

Hon. Marjory LeBreton: Honourable senators, yesterday in the June 20, 2000 edition of the *Winnipeg Free Press* there was a report on a speech by Alliance Party leadership candidate Stockwell Day and his offensive attempt at humour at the expense of the Senate.

Senator Kinsella: Shame!

Senator LeBreton: I quote from the article:

(Did you hear the one about the senator who had a heart attack in the senate chamber? The paramedics rushed in and dragged out four senators before they got the right one.)

Honourable senators, Mr. Day thinks this is funny. Is this the attitude he would bring to the leadership of the Alliance Party? This is all the more shocking because Mr. Day blatantly parades around the country extolling the virtues of so-called Christian values.

Someone should sit Mr. Day down and tell him, in no uncertain terms, that there is nothing funny about heart disease and nothing funny about playing out a scenario whereby a joke can be made about a serious medical emergency occurring at any organization, be it a legislative forum or otherwise. Senators in this place range in age from their late 40s to their 70s and, as such, are statistically not unlike their fellow Canadians in the heart risk category. Our esteemed colleague Dr. Wilbert Keon has dedicated his life to saving the health and the lives of victims of heart disease.

Senator Kinsella: He does a good job!

Senator LeBreton: As one who personally sat in an emergency room, watching doctors work to save my own husband's life from a serious heart attack, I can only say to Mr. Day that if you want to debate the merits of the Senate, fine, let us get on with it, but your distasteful, callous, cruel and ignorant remarks about a disease that is the number-one killer of Canadians is unforgivable and should not be tolerated by anyone, especially from one who aspires to leadership.

Hon. Senators: Hear, hear!

[Translation]

NATIONAL ABORIGINAL DAY

Hon. Aurélien Gill: Honourable senators, June 21, National Aboriginal Day, is not a day like any other. The profound meaning of this day could not be any more ancient, because June 21 marks a natural passage, a real step by the earth onto the path of light. In the days of our ancestors, we met together to dance and to celebrate. The first day of summer was a time for community, a time for meeting, a time when everyone celebrated the pleasure of being together. I feel it is wonderful and highly significant that this date has been selected for National Aboriginal Day. We are the first Canadians, going back to ancient times in this land. Nevertheless, it must be known, and it must be repeated, that our special day is for all Canadians, because it celebrates getting together, light and solidarity. The oldest Canadians invite the newest to a joint celebration.

I have said many times that it was wrong to conceive of Canada as a country with two founding cultures. Canada cannot be built on the principle of forgetting our existence. This celebration of June 21 is therefore an important event. In a way, it is the start of a sequence that represents what we all are, as modern Canadians. Canada starts with us. Canada's celebrations start with us. They continue with June 24, St. Jean Baptiste Day, and end with July 1, Canada Day. Three parts to a single celebration. To be Canadian is to be Dene, Anishinabe, Siksika, Gwich'in, Micmac or Inuit, to have pride in our cultures and our identities, to be comfortable in a country to which our existence is a source of pride, to be happy that our celebration is shared by all. I must stress that point. If the special celebration of one founding identity does nothing but divide and isolate us, then I say there should be no celebration. We are celebrating the fact of being who we are, within a greater whole which is our shared country. June 21 serves as a reminder to all Canadians of who we are, who we have been, and particularly who we will be in the future of this country. June 24 happens to be the celebration of all of this country's francophones. It, too, is celebrated everywhere in Canada. For a francophone to be able to speak French in the Yukon or in the Northwest Territories, and to be able to celebrate la Saint-Jean there, is something quite wonderful for our country.

St. Jean Baptiste Day, like the celebration of the summer solstice, represents to us another manifestation of shared joys, an event that clarifies and illuminates. The triptych is completed with July 1. Canada Day unites what has already been recognized and celebrated on the other two occasions, and adds the last element to close the circle.

By celebrating the First Nations on June 21, Canada is assuming symbolically the true historical sequence of its own creation.

BRITISH COLUMBIA

VANCOUVER—QUEEN ELIZABETH ELEMENTARY SCHOOL—
REFUSAL OF PARENTS OF ANGLOPHONE CHILDREN
TO ACCEPT FRANCOPHONE CHILDREN

Hon. Jean-Robert Gauthier: Honourable senators, yesterday, I mentioned a statement made by the Commissioner of Official Languages, Dr. Dyane Adam, regarding official languages.

Today, I am going to tell you about a specific case. I draw your attention to a case involving young francophones in British Columbia. I shall do so in English, because the article I read today was in English.

[English]

Seventy elementary-age students from British Columbia who will be going to school this fall are not welcome by some anglophone parents to Queen Elizabeth Elementary School because parents say that these French-speaking students will be separatists. How can 11-year-old people be separatists?

I quote from *The Vancouver Sun* dated June 19, 2000:

While some anglophone parents are welcoming the French students to Queen Elizabeth elementary, saying they will add diversity, others charge the newcomers will be separatist.

One parent advisory committee representative said they may have a "tenacious domineering attitude" and that they are from low-income families.

So they are French and they are poor.

The kindergarten-to-Grade 3 students, children of francophone parents, take their schooling in French under the publicly funded B.C. Francophone Education Authority...

The private Catholic school building that housed the students of L'École Rose-des-vents is slated for demolition, so the authority has been searching for another public school space in Vancouver to rent from the board.

I quote again from the article:

Many parents at Queen Elizabeth said they were angry they weren't consulted. At a public meeting last week, some said they don't want anything to do with the French school and that they disagreed philosophically with providing space for a school founded on the idea of maintaining a separate identity.

According to the article, one parent wrote to the school board that:

...the French students will have a bad effect on the west-side school, and he wrote, erroneously, that the French teachers would prohibit their students from interacting with English-speaking kids.

"This separatist pattern may indicate a tenacious domineering attitude in ethnic and day-to-day affairs," wrote Wozny...

"In addition, they are low-income families...and very likely will need other forms of support."

Honourable senators, if you want to read the full article, you may refer to it easily by searching through the Parlmedia Web site in *The Vancouver Sun* of June 19, 2000.

• (1350)

Those who would refuse access to francophone children by accusing them of being separatists or poor people should be ashamed of their attitude and behaviour. Francophone Canadians are not asking for more or for less than what the Constitution of this country gives them.

I know that education is a provincial matter, but the Charter of Rights and Freedoms, in article 23, adopted in 1982, some 18 years ago, is the law of the land and should be respected. All children should be entitled to have their education in this country in the language of their parents and the official language of their choice.

When the Official Language Commissioner says that governments are silent and indifferent, she is also implying that there is a level of intolerance in this country which should be addressed.

I hope the Vancouver School Board, which will be asked to rule on this question, will resolve the problem as soon as possible.

NATIONAL ABORIGINAL DAY

Hon. A. Raynell Andreychuk: Honourable senators, it is with great pleasure that I rise in celebration of National Aboriginal Day. In conjunction with our many aboriginal organizations, the Government of Canada chose this, the longest day of the year, to recognize the profound contribution our Indian, Inuit, and Métis people have made to the development of this great country. Indeed, their contribution to Canada has helped make this one of the most vibrant and culturally diverse countries in the world.

Aboriginal people have lived on this land for thousands of years. When those first European settlers did eventually land on Canadian soil, they found hundreds of brave and compassionate natives ready to welcome them and to teach them about food, medicine and survival. As this friendship sadly eroded over time, the aboriginal people relied on their distinct heritage, language, cultural practices and spiritual beliefs to unify and fortify their people.

Aboriginal people's contributions to Canada are profound. As we celebrate the summer solstice of this new millennium, let us rejoice in a new era of shared understanding and mutual respect.

Recently, a National Aboriginal Day poster competition was held to showcase aboriginal artistic talents and provide a bold new image to commemorate this special day. I congratulate the winners and all those who entered the contest. Some 200 aboriginal submissions were received.

Honourable senators, today is marked by two opportunities: One is for these wonderfully talented first nation Inuit and Métis Canadians to showcase their artistic prowess and the beauty of their culture; and the other is for us to join in the festivities, hear their experiences, understand their history and grow together as Canadians.

Fellow senators, I invite you to join me in celebrating National Aboriginal Day and in particular to join with aboriginals to learn more about this great land that we call Canada from those Canadians who were here first.

Hon. Thelma J. Chalifoux: Honourable senators, it gives me great pleasure today to wish you all happy National Aboriginal Day. Today is about awareness, a time when all Canadians should realize that the aboriginal peoples of Canada are truly an important part of the mosaic that makes our country the best in the world.

Senator Kinsella: But they are still not at the table!

Senator Chalifoux: It is sad that so many of our communities do not have the opportunity to enjoy all of the amenities that so many Canadians take for granted. Many of our communities in the mid-Canada corridor have no medical services, and our children still go to school in horse-drawn wagons. Many social ills are rampant in these communities. There is between 80 and 90 per cent unemployment, while industry is developing all the natural resources around them. The aboriginal communities in urban areas are stereotyped as ghettos while other ethnic communities are viewed as tourist attractions.

I met a young woman today, and we were discussing the latent discrimination against aboriginal peoples in the government's hiring practices. She made an interesting remark. Her husband is from Guyana. When he applied for a job, he was given the benefit of the doubt. The potential employer assumed that he was well educated, which he was. An aboriginal person with the same qualifications is almost never given the benefit of the doubt. It is assumed that our people are uneducated and not reliable.

This is why National Aboriginal Day is so important, so that all Canadians can become aware that we are truly a part of the mosaic that makes up Canada. The contributions that the three aboriginal nations — the Métis, the Inuit, and the First Nations — have made to this country must be told, or Canada will never be able to stand tall, and our history as a country will suffer.

BRITISH COLUMBIA

VANCOUVER—QUEEN ELIZABETH ELEMENTARY SCHOOL—
REFUSAL OF PARENTS OF ANGLOPHONE CHILDREN
TO ACCEPT FRANCOPHONE CHILDREN

Hon. Marcel Prud'homme: Honourable senators:

"What we hear most of the time, we hear people want to keep Quebec part of Canada — they love Quebec," said Monique Giard, the mother of two young children enrolled for next September. "That is so hypocritical."

Honourable senators, that quotation is exactly how I had intended to begin my statement on the matter that Senator Gauthier raised. If you want to know more, read *The Vancouver Sun*, final edition, June 19, front page, and you will understand. Prior to voting on Bill C-20, you might reflect on why people sometimes come to that kind of decision.

ROUTINE PROCEEDINGS

Wednesday, June 21, 2000

ABORIGINAL PEOPLES

OPPORTUNITIES TO EXPAND ECONOMIC DEVELOPMENT
OF NATIONAL PARKS IN THE NORTH—BUDGET REPORT
OF COMMITTEE ON STUDY PRESENTED

Hon. Thelma J. Chalifoux, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Wednesday, June 21, 2000

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

FIFTH REPORT

Your Committee, which was authorized by the Senate on June 13, 2000 to examine and report upon the opportunities to expand economic development, including tourism and employment, associated with national parks in northern Canada, within the parameters of existing comprehensive land claim and associated agreements with Aboriginal peoples and in accordance with the principles of the *National Parks Act*, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary; and to adjourn from place to place within Canada.

The budget was presented to the Standing Committee on Internal Economy, Budgets and Administration on Tuesday, May 16, 2000. In its Tenth Report, the Internal Economy Committee recommended that an amount of \$45,411 be released for this study. The report was adopted by the Senate on Wednesday, June 7, 2000.

Respectfully submitted,

THELMA CHALIFOUX
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Chalifoux, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CANADA TRANSPORTATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Leonard J. Gustafson, Chairman of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

The Standing Committee on Agriculture and Forestry has the honour to present its

THIRD REPORT

Your Committee, to which was referred Bill C-34, An Act to amend the Canada Transportation Act, has, in obedience to the Order of Reference of Monday, June 19, 2000, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEONARD J. GUSTAFSON
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Wiebe, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1400)

CONFERENCE OF MENNONITES IN CANADA

PRIVATE BILL TO AMEND—PRESENTATION OF PETITION

Hon. Sharon Carstairs: Honourable senators, I have the honour to present a petition from the Conference of Mennonites of Canada, of the City of Winnipeg, in the Province of Manitoba, praying for the passage of An Act to amend the Act of Incorporation of the Conference of Mennonites in Canada.

QUESTION PERIOD

TRANSPORT

LEASE DISPUTE BETWEEN PORT OF HALIFAX
AND HALTERM LIMITED

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. I am beginning to wish that the minister's colleague from Cape Breton were back in his seat.

Honourable senators, I was somewhat taken aback by the response I received yesterday from the Leader of the Government in the Senate on the Halterm question. The minister had given what I had understood — and for which I expressed appreciation — as a firm undertaking to bring to an end the squabble between Halterm and the Halifax Port Authority.

When I read the blues last night, I could only assume that we are now into the third flip-flop: It was approved, it was unapproved, it was approved, whatever the sequence of events. The fact is that the matter is not resolved, and it does not appear it will be. Port operations, as the minister knows, are key to the city's, indeed the province's, economic well-being. Every day the dispute continues causes harm to Nova Scotia's national and international reputation among those who would use our port facilities.

Honourable senators, I made a facetious remark earlier, but I remind the Leader of the Government in the Senate that he is the minister from Nova Scotia. Nova Scotians do not have access to the minister, and neither do the members of the House of Commons. This is a special responsibility for senators on this side of the chamber. I ask questions about Sea Kings and about Halifax because Senator Boudreau is the voice of Nova Scotians in the Government of Canada.

Will the minister do something to resolve the dispute between the port authority and the principal tenant, Halterm? If not, what can we expect?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, in response to the question, I do appreciate the senator's concerns impacting Nova Scotia and I am always happy to respond. As I have indicated in the past, this dispute has arisen between the two parties much in the format of a commercial dispute. I believe it is in the best interests of everyone that the dispute be resolved as quickly as possible. The parties have decided on courses of action, and I have made my own views and the honourable senator's clear to the minister. At this stage one hopes this dispute will be resolved as quickly as possible.

HUMAN RESOURCES DEVELOPMENT

MILLENNIUM SCHOLARSHIP FOUNDATION—REQUEST FOR GRANT BY SECOND WELLINGTON NOVA SCOTIA CUB PACK

Hon. J. Michael Forrestall: Honourable senators, the minister was not able to do much about Sea Kings. The minister was not able to do much about getting funding for Highway 101. The minister has not done anything, and he continues to be hopeful about the port dispute. Devco has been left to go down the drain.

I shall ask a simple question. The minister may be well aware of the following issue because he is our Nova Scotia minister.

The Second Wellington Nova Scotia Cub Pack applied for a millennium grant to bring their cubs and their chaperones to

Ottawa for Canada Day 2000. They needed \$37,000 to make the trip. These kids from that small community raised \$31,000 on their own. In seven months of waiting for an answer to a request for a grant from the federal government, they have heard nothing. No one sought any information from them as to why they wanted this additional money. No one sought to help them or be a benefactor to them.

Since three or four attempts have failed to get a positive response from the federal government with respect to the status of their grant, and because July 1 will be here in nine days, is there anything the minister can do about this miscarriage of simple justice? This group from Wellington, in the heart of Nova Scotia, needs just \$6,000.

The minister does not seem to know where Wellington is located and he wants to run in Halifax County in the next election. God forbid. I apologize for asking the minister the question. Good Lord!

Hon. J. Bernard Boudreau (Leader of the Government): I thank the honourable senator for his helpful comments. I asked for the location because I assumed that the MP from the area would have been interested in bringing this matter forward to the minister in charge of the Millennium Scholarship Foundation. Either he did not do it, or he did not do it effectively.

In any event, the Honourable Senator Forrestall has taken up the cause, as it was left to him from the failing hands of the MP. I shall say that this request does indicate the tremendous popularity of the millennium program. I believe all senators are aware of the huge number of applications that are received from across the entire province of Nova Scotia, and some very worthy projects were not successful. In the case of this particular project, I shall be happy to investigate. Perhaps between the honourable senator and myself, we can do some of the job that the MP in question failed to do.

Senator Forrestall: Right on! I shall get it one way or another.

[Translation]

CANADA-UNITED STATES RELATIONS

NEGOTIATIONS ON FAVOURED EXEMPTION FROM INTERNATIONAL TRAFFIC IN ARMS REGULATIONS—REQUEST FOR UPDATE

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. The Minister of Foreign Affairs was recently in Washington to renew the NORAD agreement for a further five years. The minister also signed an agreement on the operation of commercial remote sensing systems via satellite. Will the signing of these agreements eliminate the problems encountered during the past year by the Canadian defence equipment and aerospace industries?

According to the newspapers, 80 per cent of Canadian military exports will be exempt under American export permits. We are talking here about an agreement on the operation of commercial remote sensing systems via satellite. From what I understand, the issue of exports of dual use technological equipment, which is used for both commercial and military purposes, is not settled. This is an industry which, in Canada, generates between five and six billion dollars in contracts. It is a major industry. There are companies in Quebec and elsewhere, including Ontario. In my opinion, the renewal of the NORAD agreement can mean two things. A consolation prize for refusing to grant the exemption to Canada — which would be a disaster — or an incentive used by the Americans to try to change the Government of Canada's view regarding the national missile defence system.

[English]

• (1410)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not specifically familiar with the particular agreement with respect to NORAD. As the honourable senator says, the minister is in Washington. I have not had an opportunity to date to be briefed on the agreement the minister signed. However, to the best of my knowledge, the NORAD agreement is separate and apart from the other problem, which has been the subject of an ongoing dialogue for some time.

I do not know if the other agreement that the minister signed deals specifically with that problem. I know discussions have been going on at the highest levels, including at the presidential and prime ministerial level. The tenor of those discussions was encouraging, and it was anticipated that we could resolve the issues surrounding access of Canadian subcontractors or, indeed, bidders to American defence opportunities and so on. I am not certain whether that matter has been resolved. I shall certainly make inquiries and supply that information to the honourable senator.

[Translation]

Senator Bolduc: It seems that, between now and the month of September, about 80 per cent of the problems relating to export permits will be solved. This is already a major improvement. The other 20 per cent specifically concerns the production of technological equipment that can be used for commercial and military purposes, and represents some four to five billion dollars in contracts. I would ask the minister to do his utmost to see that the government tries to settle this issue with the Americans.

[English]

Senator Boudreau: Yes. I can assure the honourable senator that discussions are ongoing with respect to that particular

element. The most recent briefing I had — and I must confess it was not within the last couple of weeks — indicated that they were progressing well, and there was hope that the issue could be resolved in due course.

BUSINESS OF THE SENATE

Hon. Douglas Roche: Honourable senators, my question is to the Leader of the Government in the Senate, but he may wish to refer it to his colleague, the deputy leader. Next Monday, June 26, is a legal holiday, and recognizing that senators flying to Ottawa from Western Canada on Tuesday cannot reach this place until mid-afternoon, has the government given any consideration to starting the sitting of the Senate at 4 p.m. on Tuesday, June 27?

Senator Kinsella: There is no holiday in Alberta on Monday.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the short answer to the honourable senator is that the Deputy Leader of the Government will be asking leave to make a statement to the Senate today about Senate business and our upcoming schedule.

Senator Kinsella: He does not need leave.

DELAYED ANSWER TO ORAL QUESTION

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on June 13, 2000, by Senator Murray regarding Atomic Energy of Canada Limited, possibility of privatization.

ATOMIC ENERGY OF CANADA LIMITED

POSSIBILITY OF PRIVATIZATION

(Response to question raised by Hon. Lowell Murray on June 13, 2000)

Government officials are studying an internal restructuring of AECL along three lines — reactor sales, nuclear research and the management of nuclear waste. No final decisions on restructuring have been made. Under all of the options being discussed, the company would continue to operate under the same management structure, including retaining the existing Board of Directors. The privatization of AECL's CANDU business is not under consideration.

However, consistent with the Federal Government's 1995 Program Review decisions, parts of AECL's business are being privatized — the Underground Research Laboratory in Lac du Bonnet, Manitoba and AECL's Accelerator technology.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, as the government leader indicated, I should like to make a statement to the house on the matter of house business, and accordingly, I ask leave to do so and to deal with any questions that arise out of my statement.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Kinsella: You do not need leave.

Senator Hays: Thank you. I shall remember that for next time.

Honourable senators, we are approaching what we hope shall be a summer break. As you know, we have quite a busy time ahead of us to complete matters that are on our Order Paper, so I should like to take a moment or two to make a statement on this and to discuss with honourable senators any questions they may have. In particular, I invite my counterpart, Senator Kinsella, Deputy Leader of the Opposition, to bring up any matters upon which he might like me to elaborate.

To begin, as most of you have already sensed, or know, we shall be sitting on Friday of this week. I anticipate that we shall sit Tuesday, Wednesday and Thursday as well, although not Monday because it is a holiday in Quebec.

Senator Lynch-Staunton: In Ottawa, too?

Senator Hays: It is a day of holiday in this place. That is the reason we shall not sit Monday. We shall need leave to adjourn to Tuesday.

I shall try to make a helpful comment for Honourable Senator Roche. The reason we would sit at 2 p.m. on Tuesday is because we have quite a lot to do. I heard someone in the chamber say that Monday is a holiday in Quebec but not in Alberta. I do not know if the honourable senator will be commuting from our home province this coming week or from Quebec. In any event, we shall make a decision on the time that we adjourn to on the last sitting day of this week. I shall raise this matter with my counterpart, and I have noted the honourable senator's concern. We shall determine what time we shall adjourn to, but at this point, I believe it most likely will be an adjournment to our regular sitting time on Tuesday, namely 2 p.m.

One reason is that the caucuses of the government and opposition parties are normally on that day at noon. I appreciate that the honourable senator, as an independent, is not involved in those meetings, but they are important in terms of business of this place. Many of the bills we have before us will be reported tomorrow and will be at third reading stage, and thus, as I see it

now, there will be the necessity to sit on Friday, to give timely consideration to those bills reported on Thursday. I could list them all, but they are on the Order Paper. They include, though, just for your information, honourable senators: Bill C-25, the amendments to the Income Tax Act, from the Banking Committee; Bill C-11, the Devco bill, from the Energy Committee; and the electoral name change bills from the Legal Committee.

In addition we still have bills at second reading stage. I am not sure how they will progress. That will be up to this place.

There are some bills that are worthy of special comment. One is Bill C-16, which is at second reading stage. I am not sure what the disposition of this bill will be. It is a bill that the government side would like to see dealt with, but we may not have agreement with the other side in that regard. We hope that bill will go to committee this week — perhaps even today. Bill C-19, dealing with the International Criminal Court, is another bill that we hope to get to committee today. Bill C-37 is the pension bill. We need to sit next week to determine what we shall do with it. We also have an appropriation bill, Bill C-42.

That brings me to one of the most important and difficult bills we have had before us, and that is Bill C-20. It is controversial. I am engaged in a negotiation with my counterpart as to how this bill should be dealt with. I shall put my negotiating position forward now. Senator Kinsella, I am sure, shall comment on what I am about to say with respect to how I envisage Bill C-20 will be treated.

• (1420)

We should have a list of speakers. I would be happy to receive notice from independent senators of their intention or desire to speak, and I am sure Senator Kinsella would as well. We have as many as four or five sitting days, but it is reasonable to expect that quite a number of senators will wish to speak at third reading stage. There will be amendments, and it is important that we use our time well. In that context, it would be my intention to watch carefully the 15-minute speaking limit. At the second reading stage, we extended the time limit by half an hour, in most cases to deal with speeches and questions. I have had discussions with Senator Kinsella, and I am indicating to all honourable senators in the chamber now that when the 15-minute time period expires, I would suggest leave be given for an extra 10 minutes or, at most, 15 minutes. That is justifiable because many senators wish to speak, and taking too much time will limit the time available to individual senators. If we are to sit into July, it would not matter, but I do not sense a disposition to do that.

I also give notice to honourable senators that it would be my objective that the last two speakers before we move to the vote would be the Leader of the Opposition and the Leader of the Government. Many senators want to be near the end of the list or have expressed a desire to speak last. However, I believe that right should be reserved for the Leader of the Government and the Leader of the Opposition.

We are also awaiting a ruling on Bill C-20 with respect to the issue of Royal Consent.

In terms of getting Bill C-20 to a vote, the desire on the government side is that it be voted on before we rise for the summer, even to the point of giving notice of and moving a motion for time allocation. I do not intend to do that today.

Senator Lynch-Staunton: Shame!

Senator Hays: However, I point out to honourable senators that this option is available to us. We would be prepared to use that option to get this bill to that stage.

Those are my comments, honourable senators, as to how I see matters unfolding.

[Translation]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the opposition is grateful for this brief prophetic overview. It is necessary to attempt to facilitate the timetables of all senators, starting with Bill C-20. I am in full agreement with Senator Hays. We are well aware that a number of senators have expressed the wish to take part in the debate at third reading stage. The calculation is a very simple one, and I think that, between today and next Thursday, we can accommodate all senators in the debate at third reading. We would agree with the government, under the *Rules of the Senate*, to designate next Thursday, June 29, as the day of the vote. We know that it is quite likely that amendments will be moved in the house by various senators. If it could be agreed on Thursday, June 29, to consider all amendments and proceed to a vote at third reading stage, we on this side are prepared to accept that decision. This would also be very important from the point of view of order.

If one honourable senator moves an amendment, the present *Rules of the Senate* require us to dispose of that amendment before returning to the main motion. However, if we are in agreement, we will be able to continue the debate by moving amendments, and senators will be able to speak to an amendment or to third reading.

With respect to Friday, June 23, we are very sensitive to the tradition of observing the eve of St. Jean Baptiste Day. For that reason, if we can determine the work to be done Friday morning, perhaps we could get that work done by working longer on Thursday evening, naturally without interfering with the work and the right of senators to take part in the debate.

Hon. Marcel Prud'homme: Honourable senators, the fact is that we could hold up Bill C-20. It seems to me that the die is cast and that your proposal makes a lot of sense, as does Senator Kinsella's. The important thing, for me, is that June 29 be the day we hold all the votes.

I share Senator Kinsella's view that the hours you wish to devote to your Friday legislation could be spread out over

Thursday of this week and Tuesday and Wednesday of next week, by sitting later. We will be here anyway and we can continue without any problem or recourse to the *Rules of the Senate*. This might accommodate Senator Kinsella and those who do not wish to sit Friday.

[English]

Everyone is in a good mood to cooperate with the government. Once in a while, however, the Senate should show the other chamber that we are not here to be stampeded while they have adjourned and are away from Parliament Hill. I am very happy for them, but they should not always expect us to deal quickly with important bills such as the citizenship bill, Bill C-16. I have been involved in citizenship issues for 35 years. Many of us would like to participate in the committee hearings on this bill.

Senator Finestone participated last night in debate in this chamber on Bill C-19, but she was almost not able to read her entire speech because we had to hurry. I was most interested in her views on the international court.

I hope that senators will choose one or two bills that the government would love to see passed. We could prioritize them in a gesture of cooperation. The one that they really want and the Prime Minister wants is Bill C-20. We are in a good mood, and Senator Boudreau is also very happy. With two additional senators, there is no more trouble with the bill now.

• (1430)

I should like senators on both sides, especially new senators, to have some respect for themselves and not let themselves be treated by the other chamber as they do in the National Assembly of Quebec. I was there two weeks ago when we were not sitting, and I was scandalized at the numbers. They sit less than three months a year and suddenly, in less than a week, they were sitting every night until midnight. It became a joke.

Do we want the Senate and the Parliament to be a joke? I do not know. It is for each and every one of us to decide, new senators included, how we want to be treated.

I am not yet making my speech on Bill C-20 with respect to the importance of the Senate.

I shall not object to the program proposed by Senator Hays, but please do not try to pass the bill without delay. Rather, the bill should be dealt with intelligently in committee by those interested senators who may not be members of the committee.

Honourable senators, you know where I stand on this issue. I shall not make a speech on the non-existence of independent senators. New senators do not know, but we are nonentities. Even though we are all equal, we cannot sit on committees. We are too stupid or too ignorant or too lazy, even though we are seen every day on every committee. I am aware of my blood pressure again.

Senator Kinsella raised the matter. I should hope that all senators will be careful with the amendments to Bill C-20. Sometimes amendments can be contradictory. That is why, rightly so, the rules provide that before an amendment is disposed of, we discuss the amendment and then we proceed to the main bill unless amended again or subamended.

I should like honourable senators to be alert to the fact that we may be jammed by amendments that could totally change the tone of the discussion. It is for us to discuss. I say openly what I have to say.

As far as the vote is concerned, it would be well if negotiations took place publicly. We are all equals. I have been told by His Honour time and again that we are all equals. It is like the Catholic Church — some are more equal than others, but we are all equals.

Perhaps we could know the timing of the vote in relation to when the government side wishes to dispose of Bill C-20. We do not wish to be taken by surprise. This can be done between the leadership and the opposition in a gesture of cooperation.

Hon. Douglas Roche: Honourable senators, when Senator Hays spoke a moment ago, he made reference to a comment that I am an Albertan. With respect to the question I raised about the St. Jean Baptiste holiday, the first point is that I shall gladly abide by whatever hours are set by the Senate leadership. I have no problem with that.

The second point is that I live in Edmonton adjacent to a very sizable French Canadian community which observes St. Jean Baptiste Day with great animation. The fact that the French Canadian community in Canada extends far beyond Quebec is, indeed, a mark of the greatness of this country.

Hon. Senators: Hear, hear!

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, the *Rules of the Senate* are rather clear and, judging by what I have heard today, they will be applied. It is stated that a period of 15 minutes is allocated for speeches, including questions and comments, that is it. Is this really what we are doing?

Some Hon. Senators: No.

Senator Gauthier: Second, for your information, I should like to state that St. Jean Baptiste Day is the celebration of all French Canadians. Who said it was exclusive to Quebecers?

[English]

Senator Hays: Honourable senators, I concede to Senators Roche and Gauthier my error. I thank Honourable Senators Kinsella and Prud'homme for their indication of general support and cooperation for what has been outlined in my statement and that of the Deputy Leader of the Opposition.

We shall have to see about Friday. I, quite frankly, would have loved to have adjourned earlier this week, but we could not do that, for good reason. In any event, we shall do the best we can in our discussions with respect to Friday.

With respect to Senator Prud'homme's comments, I do not know that I can be more helpful than to just make the statement that I have listened to him, as has Senator Kinsella, and that his comments will be taken into consideration.

I recognize that Senator Roche was chiding me with respect to St. Jean Baptiste Day. I acknowledge that he will be here on Tuesday at 2 p.m., if that is when we return.

In response to Senator Gauthier's question with regard to the 15-minute time period, we will have to see how the debate unfolds. I would envisage that we would respect the 15-minute rule, with the probable modification that we would extend the time by 10 minutes or at most a further 15 minutes. The reason is, as I stated earlier, out of respect for the desire of many senators to participate in the debate. There is wisdom in applying such a practice and such a rule so that we have adequate time for all to be heard.

Senator Robichaud: You should stick to 15 minutes.

Senator Gauthier: I ask a second question concerning amendments. I have amendments. If I understood the deputy leader, all amendments will be stood, if that is the word to be used, until a day to be determined, at which time they will be dealt with by votes, by division. Is that a new way of playing the game? When there is an amendment to the main motion, the usual practice is that the amendment is dealt with and disposed of and then we go back to the main motion. If I heard properly, we shall not do that. We shall hold or stand the amendments, even though they may be important and could have a strong impact on the entire bill, until we start voting on them at a date to be determined. Am I correct in my assessment?

Senator Hays: Not only are you correct, Senator Gauthier, in your understanding of what I have said, but also in your understanding of what Senator Kinsella is saying. I would observe that we have done this on at least two occasions since I have been deputy leader. I shall decide later this week, perhaps later this day, but it appears that your description of how we shall proceed is correct.

For those honourable senators who wish to know when the vote will be held, that will be the subject of a house order I shall introduce either by way of notice of motion or with leave sometime later this week, I hope.

**BILL TO GIVE EFFECT TO THE REQUIREMENT FOR
CLARITY AS SET OUT IN THE OPINION OF THE
SUPREME COURT OF CANADA IN THE QUEBEC
SECESSION REFERENCE**

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Graham, P.C., for the third reading of Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference.

Hon. Joan Fraser: Honourable senators, let me say first what an extraordinary privilege it has been to work with the special committee that studied this bill.

[Translation]

• (1440)

I should like to acknowledge all of the members of the committee from both sides of the house, along with all the other senators — and there were many of them — who worked so hard to examine this bill in depth, with sobriety and intelligence. This was a classic example of the Senate's contribution to the quality of life and of the public administration of our country. I am very proud to be associated with it.

Since I speak more quickly in English, I am going to continue entirely in English in order to keep within the time limit.

[English]

When I spoke at second reading, I said that, not being a lawyer, I would follow the discussions of this bill's legal aspects with close attention and concern. I remain convinced that the bill is essentially political in nature, but that is all the more reason to be as sure as is humanly possible that it is legally sound. Having listened to testimony from witnesses, including some of the great legal minds of this country, I am now convinced that it is. I found the evidence overwhelmingly persuasive that Bill C-20 is entirely constitutional, in that it respects both the Supreme Court's opinion and the constitutional roles of the Senate, the House of Commons, the Government of Canada and, not least important, the provinces.

I was particularly interested in some of the questions that have been raised here in the eloquent debates on second reading and that were pursued in committee. Let me touch on a few of them. They include the rights of aboriginal peoples and of language minorities, the role of the Senate, the divisibility of Canada and the implications of requiring a national referendum before negotiations on secession begin, should we ever reach the sad day where the people of a province — my province — decided they wished to secede.

I turn first to the rights of aboriginal peoples. Aboriginal representatives told us that they would prefer to see the bill require specifically that they be at the table if a constitutional amendment were being negotiated on secession. I concur with the Assembly of First Nations, which told us that while it would like to see such an amendment, it was not essential, because the Constitution already guarantees in section 35.1 that aboriginal peoples would be at the table if their rights were affected by the negotiations. Other witnesses confirmed the weight of that guarantee, as did the minister.

Clearly, aboriginal rights would be affected if secession were being negotiated. Indeed, Bill C-20 specifies that no federal minister shall propose a constitutional amendment to effect secession unless the negotiations have addressed the rights, interests and territorial claims of aboriginal peoples. It is clear, aboriginal people will be at the table.

The protection of language minorities is particularly acute to me. I note with some comfort that the bill also requires the negotiations to address minority rights. That does not guarantee us a seat at the table, but it gives us a powerful lever to ensure that we shall, indeed, be protected, and I know, with utter certainty, that we shall use that lever.

Senator Lynch-Staunton: You and Bill Johnson.

Senator Fraser: I come now to a subject that has concerned many senators deeply, and that produced some brilliant moments in our debate at second reading, the role of the Senate.

It seems clear to me that Bill C-20 does not deprive the Senate of any power. We never did have the power to protect constitutional negotiations from the beginning, and we cannot lose what we never had. Our role comes later when a constitutional amendment is brought to Parliament. We then can, if we believe it necessary, exercise a suspensive veto that will give time for errors to be corrected, or for the Canadian people to be alerted to the dangers that we perceived. That is a very great power, never to be underestimated. However, I repeat, we have never had the power to veto constitutional negotiations before they even start.

Senator Lynch-Staunton: Nor does the House.

Senator Fraser: I shall get to that, senator.

Honourable senators, imagine the result if we did have that veto power. By definition, we would be exercising it in a situation where the people of a province, my province, had said lawfully, democratically and in a way that both the National Assembly and the House of Commons had said was unmistakably clear, that they wanted to secede. Could you imagine how the citizens of Quebec would react if we in the Senate then said, "Oh, no, sorry, we shall not let you even open negotiations about secession." I put that question to Professor Maurice Pinard, who is the unquestioned expert on matters of Quebec public opinion.

Senator Lynch-Staunton: What was the question?

Senator Fraser: I am glad that you are listening, senators.

He said that that kind of division between the Senate and the other place would be "disastrous," that it would have "tremendous consequences," and that it would lead to "a very serious crisis." I think Professor Pinard is right. Some senators argue, and I would draw Senator Lynch-Staunton to this passage of my remarks.

Senator Lynch-Staunton: I am all ears.

Senator Fraser: Some senators argue, and I have great respect for their learning and convictions, that to create that power for the other place but not for the Senate is contrary to the fundamental nature of our bicameral parliamentary system. Authoritative witnesses told our committee that, even apart from the fundamental fact that it is the House of Commons that is the confidence chamber and has the power of the purse, it has not been uncommon for one of the two chambers to have a power or a responsibility that the other does not have. Sometimes, it has even been the Senate that was handed that responsibility. As Senator Kroft noted, for example, that was the case in the old Divorce Act.

A separate question is whether, in accepting Bill C-20, we are accepting bad precedent, starting a series of events that will eventually lead to a diminution of the Senate's powers. I cannot see how this bill, which addresses a situation so extraordinary as to be unique, can be a precedent for anything. We retain our full power to veto legislation, including legislation that would diminish our powers. As Professor Joseph Magnet pointed out to the committee, it is almost impossible for the government to adopt any policy of any weight or substance — some senators cited, for example, a new national energy program — without passing legislation. Our role remains undiminished. It was important for us to consider the bill carefully in that context, because we all have a duty to uphold the Senate, but it is clear to me that we are not diminishing the Senate in any way by passing this bill.

Let me come now to the matter that has been raised so passionately by Senator Joyal, the question of whether Canada is indivisible, and whether the whole people of Canada must, therefore, be consulted by referendum before secession of any province is negotiated.

Surely, we were all moved by Senator Joyal's eloquence, and perhaps given pause by his reasoning. For many of us there is an almost instinctive response, a yearning to have it somehow be true that this wonderful country can be guaranteed that it will not be divided. Honourable senators, it is not true. That is not the path that Canada has chosen. We are not like the United States,

which, as Senator Kroft pointed out so well yesterday, fought one of the bloodiest wars in history to preserve its union. Let us not be mistaken, if we really believe that the country is indivisible, fighting a war to prevent secession must be the logical extreme to which we are prepared to go, should all else fail. Other countries have learned that dreadful lesson throughout history. It has been the great genius of Canada to see that unity cannot and should not be built on suppression.

Even if we believed that morally Canada should be indivisible, we would be left with the plain fact that the Supreme Court of Canada has ruled that we are divisible, if rigorous conditions of legality and democracy are met. Every single witness to the committee, even those who disliked the court's opinion in the Quebec secession reference, agreed that that opinion is binding. It is now part of the law of Canada. We cannot evade it or wish it away.

Honourable senators, should we then turn to Senator Joyal's proposal that a national referendum be required before negotiations on secession may begin? I think not.

First, in legal terms, it seems to me that this is plainly counter to the Supreme Court's judgment. It was not a short judgment, narrowly focused on technicalities. It was a wide-ranging discussion of fundamental elements of national arrangements. Let us recall what the court said:

The clear repudiation by the people of Quebec of the existing constitutional order would...place an obligation on the other provinces and the federal government to acknowledge and respect that expression of democratic will by entering into negotiations...

The court stated that the negotiation process would be:

...precipitated by a decision of a clear majority of the population of Quebec on a clear question to pursue secession...

• (1450)

The court also said:

...a clear majority vote in Quebec on a clear question in favour of secession would confer democratic legitimacy on the secession initiative which all of the other participants in Confederation would have to recognize.

The court did not say that the other participants in Confederation would have to negotiate only if other Canadians assented in their own referendum. Surely, if the court had thought that any such popular permission was needed to launch negotiations, it would have said so. It did not say so.

Senator Lynch-Staunton: They were not asked.

Senator Fraser: It said repeatedly that the duty to negotiate would be launched by Quebecers voting clearly in response to a clear question.

Honourable senators, suppose that we did have a national referendum and that Canadians outside Quebec, or even just Canadians in one of the five regions to which Senator Joyal would give a veto, said that there should be no negotiations? That would mean that Canada ignored the constitutional duty that the Supreme Court has said it would have to negotiate in response to the clearly expressed will of Quebecers. I have to believe that to insert this new roadblock would be unconstitutional.

It is worth noting one further comment from the Supreme Court:

Refusal of a party to conduct negotiations in a manner consistent with constitutional principles and values would seriously put at risk the legitimacy of that party's assertion of its rights....Those who quite legitimately insist upon the importance of upholding the rule of law cannot at the same time be oblivious to the need to act in conformity with constitutional principles and values, and so do their part to contribute to the maintenance and promotion of an environment in which the rule of law may flourish.

Honourable senators, I also believe that in political and moral terms it would be profoundly wrong, a terrible and tragic mistake, to try to create this new roadblock of a national referendum. What kind of a message would we send to Quebecers if we told them that no matter what the Supreme Court said, their own will was not enough, that their destiny was subject also to the veto of the other regions of Canada? We would, by that very act, be undermining the trust that millions of Quebecers have had in Canada's sense of democracy and fair play.

It is no exaggeration to say that one reason Quebecers have not felt they needed to secede is the assurance they have had that this democratic federation respected them and would not keep them against their will. That is certainly a crucial reason why the secessionist movement in Quebec has remained so adamantly democratic for more than 30 years.

Honourable senators, the secession of any province, let alone one as important as Quebec, would be a wrenching experience, far more so than most of us can imagine, with consequences that would echo down the centuries. We do not want it to happen. We want to protect Quebecers against secession that happens in confusion, that is not based on their indisputably clear will. If secession does come, Canada has the duty to insist on fair terms, including fair terms for minorities, and to negotiate toughly to ensure that they are achieved; but Canada does not have the right to prevent secession from happening, either directly or by creating new layers of conditions that make it practically unattainable.

It seems to me that some of us would like this bill to do the impossible: to guarantee that secession will never happen, or that if it does, everything we hold dear will still be protected down to

the tiniest detail. No bill can do that. Even if we could predict the future, we do not have the democratic or constitutional power to control all events. We cannot, for example, force the Quebec government to ask the question we would like it to ask. We can only tell Quebecers the general kind of question that must be asked in order to trigger Canada's duty to negotiate.

Honourable senators, we cannot make the future turn out the way we want. We cannot ask this bill to do more than it is designed to do, but we can recognize that what it is designed to do matters. If we ever get to the day of turmoil and tragedy when the country does face a secession, this bill will help all parties to understand how the Government of Canada will begin to go about meeting its constitutional obligations. That is all it does, but it does do that. It is a legitimate goal, sought by legitimate means, and I think it merits our support.

Some Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I first want to congratulate Senator Fraser for the way that she chaired the committee's 12 or 13 meetings. It was not an easy task having voting and non-voting members. Senator Fraser had to put the hammer down on a number of occasions, which annoyed many of us, but she did the job and she did it well. I commend her for it.

The Hon. the Speaker: I regret to interrupt the honourable senator —

Senator Lynch-Staunton: This is a question.

The Hon. the Speaker: I realize that, but there was only one minute left in the speaking time of the Honourable Senator Fraser.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I propose that we give leave to Senator Fraser to deal with questions for an additional five minutes.

Some Hon. Senators: Oh, oh!

Senator Hays: For 10 minutes, then.

Senator Lynch-Staunton: More than that. She was Chair of the committee.

Senator Cools: Why not five minutes?

The Hon. the Speaker: What is the decision of the Senate?

Senator Hays: Honourable senators, I suggest that we give leave for the extension of Senator Fraser's time for 10 minutes.

Senator Lynch-Staunton: I have great respect for the academics that Senator Fraser quoted, but I am more impressed with the testimony, both before the committee and in writing, from the two people who were and will be called upon to be in the field. I am talking about Claude Ryan and Jean Charest.

In 1980, Claude Ryan was the leader of the federalist forces during the referendum campaign. He was asked what his reaction would have been had Prime Minister Trudeau introduced such a bill. He said that he would have gone to Mr. Trudeau and said, "Forget it. Forget it. We do not need this."

Jean Charest, who, if he is still there at the time of the next referendum, will be responsible for leading the federalist forces in Quebec and who was the key figure in the last referendum, wrote to the committee and said, "Forget it. We do not need it. You are intruding."

What this bill is doing — and this is my greatest concern and I am getting to my question — is dividing the federalist forces in Quebec. It is dividing the federalist parties in the House of Commons and in the Senate. It is bringing joy to the Bloc Québécois and the Parti Québécois. How can we envision such a bill when it will work against what we want, which is the unity of the country, when the only people who support it enthusiastically and unanimously are the separatists and the only people who are concerned with it are, for the main part, federalists?

Senator Fraser: Honourable senators, I am aware of the comments Senator Lynch-Staunton mentions. I must stress that I have very great respect for both Mr. Ryan and Mr. Charest.

In the case of Mr. Ryan, I note that we had a completely different legal situation in 1980. We did not yet have a Charter of Rights and Freedoms. Indeed, we did not have a patriated Constitution, and we did not have the Supreme Court opinion in the secession reference, which opinion has changed the landscape. I believe that this bill conforms quite carefully to the Supreme Court's opinion.

In regard to Mr. Charest, we are not interfering. Before I saw the text of this bill, it was one of my concerns that we might be intruding into provincial jurisdiction in a matter in which I believe we should not intrude. In fact, this bill rigorously respects the role and duty of both the federal government and the federal Parliament. While it is perhaps not fashionable in Quebec to admit that the federal government and Parliament have roles and duties in this matter, we do. In my view, that is what this bill is about.

Senator Lynch-Staunton: My point is how can you support a bill that divides federalists and brings separatists together?

Senator Rivest: That is the point. Answer the question.

• (1500)

Senator Fraser: In democracies, we have opposition. That is what Parliaments are about. We debate ahead of time. We are divided in our opinions until we reach our conclusions and then we accept the law of the land.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to congratulate Senator Fraser and thank her for the manner in which she conducted the affairs of the committee, and I say so without any conjunctive "but." It was a pleasure to be the deputy chair of the committee.

Honourable senators, I have just received a letter dated June 19, which was Monday, over the signature of Grand Chief Dr. Ted Moses, addressed to the chair of the committee, which I should like to read and ask the honourable senator whether or not she received a copy of it. It reads:

Dear Senators:

I am writing in regard to the startling disclosures in today's newspapers (*The [Montreal] Gazette*, the *National Post* and the *Ottawa Citizen*) concerning a key study on Québec Secession by U.S. Professor Allan Buchanan. The study was commissioned by the Privy Council and was submitted to the government in 1999.

Professor Buchanan's study is highly relevant to the matters being addressed by the Special Senate Committee and is of central significance to Aboriginal peoples in the context of Bill C-20. To date, the Privy Council has unconscionably suppressed this important information from the Special Senate Committee on Bill C-20 and from all Aboriginal peoples in Canada.

In light of this newly disclosed information pertaining directly to Aboriginal peoples, I am writing to request that I, as Grand Chief of the Grand Council of the Crees (Eeyou Istchee), be permitted to reappear as a witness before the Committee on Bill C-20. While we are respectful of the extremely tight schedule of the Committee, we are making this request on an urgent basis so that we may address the contents of this vital study.

My question to the honourable senator is: Did she receive a copy of this letter dated Monday, June 19, and, if so, why was it not tabled before the committee?

Senator Fraser: The answer is yes, I did receive it, but I am wracking my brain and I cannot tell Senator Kinsella precisely when. It is my recollection that I saw it only after we had concluded clause-by-clause study of the bill. I do not know whether I saw it that evening or the next day. I do know, because one of the senators or one of the witnesses in the committee had, at some point on Monday, made reference to this report of the study by Professor Buchanan. I did check the newspaper report, and while I have not seen the study itself, I did note that Professor Buchanan is a professor, not of law, but of philosophy in the United States, so I am not sure that I would take his reading of the Canadian Constitution as a certainty.

Some Hon. Senators: Oh, oh!

Senator Fraser: His opinion was one of complete and utter sympathy with the rights of the aboriginal peoples of Canada, and I believe that every member of the committee was also in complete and utter sympathy with that fundamental philosophical position.

Senator Lynch-Staunton: Except for the two members of the aboriginal community.

The Hon. the Speaker: Honourable senators, there is only one minute left. I recognize Senator Carney.

Hon. Pat Carney: Honourable senators, I should like to congratulate Senator Fraser *in absentia* because I was not a member of the committee. However, like many senators, I followed the subject matter with interest. While I realize that this bill was drawn up with Quebec in mind, I would ask the honourable senator whether it applies to all provinces of Canada, and, if honourable senators wish, I shall add territories to that question, I shall add aboriginal states, and I shall add all the other aspects of Canada which are ignored. If it does apply to all these other aspects of Canada, were witnesses called to discuss how this would apply to bids by other provinces or territories or aboriginal states wishing to negotiate a different arrangement with Canada?

Senator Prud'homme: Good question!

Senator Fraser: Honourable senators, I shall answer that as quickly as I can. Clearly, the bill does apply to any province. It refers systematically to any province, not just the province of Quebec.

Senator Prud'homme: Oh, yeah?

Senator Joyal: The definition of province includes territories.

Senator Fraser: Plus territories. As Senator Joyal reminds me, the legal definition of province includes territories. We were at pains to have witnesses come from portions of Canada outside Quebec. One or two of them raised the question, in specific terms, about other provinces. We did not explore it in great detail, but we were all conscious that we were not talking only about Quebec. In fact, we did debate that point at some length. In my view, what this bill does is protect all citizens of any province from a secession that could happen by accident, but it also protects their rights, should a majority of the people of that province or territory ever decide that they wish to leave Canada. I think it is ultimately useful should —

The Hon. the Speaker: Honourable senators, unfortunately, the time is up.

Senator Lynch-Staunton: Away you go!

Senator Kinsella: Ten more minutes!

The Hon. the Speaker: Honourable senators, I recognize that there are many other senators who wish to add comments. However, I am limited by the leave that was granted. The leave has now expired.

Senator Kinsella: Ask for further leave!

Some Hon. Senators: Leave! Leave!

Senator Lynch-Staunton: She's your senator.

Senator Hays: Honourable senators, if Senator Fraser wishes to go on, it is up to her, but I would not give leave for more than a minute or two.

She does not wish leave.

Some Hon. Senators: Shame!

Senator Hays: Honourable senators, I should like to call, as the next item of government business, Bill C-16.

The Hon. the Speaker: Honourable Senator Hays, I hesitate to interrupt you, but I have a senator rising on a point of order.

Hon. Jeremiah S. Grafstein: Your Honour and honourable senators, Senator Fraser is the chairman of a very important special committee. She has, in her evidence, drawn some conclusions from the evidence that she heard. Certainly in the circumstances it would be appropriate for us to spend at least another 15 or 20 minutes to question her —

Senator Cools: Absolutely!

Senator Grafstein: — as the chairman of that committee to deal with the substance of the evidence in front of her. It strikes me, Your Honour, that if this chamber is to be a chamber of relevant debate, this is certainly relevant.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I regret to say that the honourable senator does not have a point of order. He may have a legitimate request, but it is not a point of order under the rules.

Senator Hays: Honourable senators, I call, as the next order —

Some Hon. Senators: Shame!

Senator Hays: — of government business, item number 8, debate on Bill C-16.

Senator Lynch-Staunton: Closure by stealth!

Senator Bryden: This is not a bully pit!

Senator Lynch-Staunton: Shame! Big flip-flop!

The Hon. the Speaker: Honourable Senator Hays, I believe that the order on Bill C-20 is hanging at the moment. It is in limbo. I must have someone either speak to or adjourn the debate.

Senator Hays: Honourable senators, I shall resume my place. I spoke too soon.

The Hon. the Speaker: I must either have someone adjourn this order or speak to it.

Hon. Lorna Milne: Honourable senators, I move the adjournment of the debate.

Hon. Gérard-A. Beaudoin: I have a question, Your Honour, on Bill C-20.

The Hon. the Speaker: I am sorry. Let us be clear. I realize this is a highly charged issue but let us be clear where we are. Honourable Senator Fraser spoke on the third reading of Bill C-20. When her speech ends, either someone else speaks or it must be adjourned. It cannot be left in limbo. If someone wishes to speak, I shall recognize whoever gets up to speak. If someone wishes to adjourn, I shall recognize whoever wishes to adjourn. However, we cannot proceed to the next item until we conclude this one in some way. There can be no further questions to Senator Fraser because her speech and the period for comments and questions on her speech have concluded. We are now on to speeches or an adjournment.

Senator Milne: I move adjournment of the debate.

The Hon. the Speaker: I recognize Senator Beaudoin.

Senator Beaudoin: Honourable senators, I intend to speak, but later on. The only thing I should like now is to ask a question.

• (1510)

The Hon. the Speaker: Senator Beaudoin, if I allow you to do that, you will lose your right to speak.

Senator Beaudoin: I do not want to lose my right to speak!

Senator Prud'homme: Point of order, Your Honour! On a point of order, on a point of order!

Your Honour has said exactly what a Speaker is entitled to say. It is very clear. I saw two people: One to get up to adjourn the debate, followed by a discussion again by Senator Beaudoin; and followed again by another senator who stood up to adjourn the debate. In all fairness, you have rendered the correct decision. At this time, the one who should be recognized is Senator Cools, who has said "I move the adjournment of the debate."

Senator Andreychuk: Senator Milne!

Hon. Anne C. Cools: Honourable senators, on another point of order, this can go on for a long time. What is our objective here, to delay? I thought our objective —

The Hon. the Speaker: Senator Cools, order, please!

Senator Cools: Senator Prud'homme just called my name.

The Hon. the Speaker: Honourable Senator Cools, you will lose your right to speak if you continue this way.

Senator Cools: No, I shall not.

The Hon. the Speaker: I need someone who wishes to speak on the third reading of Bill C-20 or someone who wishes to adjourn the debate.

On motion of Senator Milne, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we are under Orders of the Day, Government Business, and I should like to call Order No. 8 next, which is a debate at second reading on Bill C-16. I believe Senator Beaudoin intends to speak.

Hon. Marcel Prud'homme: Point of order, Your Honour!

The Hon. the Speaker: Will the Table please call the order and could we have enough silence so that senators can hear the order?

Senator Prud'homme: Point of order!

The Hon. the Speaker: If you are rising on a point of order, Senator Prud'homme, I shall hear you.

Senator Prud'homme: Could the leader of the house remind us that yesterday we made an agreement that we would adjourn at 3:30?

The Hon. the Speaker: Honourable Senator Prud'homme, I regret that that is not a point of order.

Senator Prud'homme: At 3:30 it will be, though!

The Hon. the Speaker: Could we have enough silence so that we can hear the order, please!

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

Hon. Gérard-A. Beaudoin: Honourable senators, I rise to speak to Bill C-16.

[Translation]

The Government of Canada has indicated its intention to repeal the present Citizenship Act and replace it with another. This legislation, to be called An Act respecting citizenship, sets out new measures relating to obtaining and losing citizenship.

[English]

The Hon. the Speaker: Honourable senators, I request that those honourable senators who feel that it is absolutely vital that they have conversations do so outside the chamber so that we can hear the honourable senator who is speaking.

Some Hon. Senators: Hear, hear!

[Translation]

Senator Beaudoin: A person may be granted Canadian citizenship if he or she is at least 18 years of age, meets the residency criterion, has physically been in Canada for three of the last five years, has an adequate knowledge of French or English, has an adequate knowledge of Canada and of the responsibilities of citizenship, and is able to express that knowledge in French or in English without the help of an interpreter.

Bill C-16 also provides for the loss of citizenship under certain circumstances, including when the minimal conditions about residency are not complied with. Similarly, cabinet may revoke the citizenship of a person if it was obtained by fraud. Cabinet may also not allow a person to take the oath of citizenship for reasons of public interest. Finally, no person can be granted Canadian citizenship if he or she is subject to a probation order, on parole or confined in any detention centre; is charged with or on trial for an offence committed in Canada or abroad; is under investigation by the Minister of Justice, the RCMP, CSIS; has been convicted of an offence under the Criminal Code; has not obtained the required consent to be admitted to Canada; or as long as he or she is under a removal order.

Since it is not mentioned in any of the clauses relating to the division of powers, does the word "citizenship" come under federal residual powers? Must citizenship be linked to subsection 91(25) of the Constitution Act, 1867? In 1960, the

learned Justice Rand wrote that, at the time of the federation, Canada was a state, but that citizenship was perceived in terms of allegiance. People talked about subjects, foreigners, aliens.

Nowadays, the status of citizen is both complex and important. Since it is not mentioned in the Constitution Act, 1867, it therefore comes under the residual powers of the federal Parliament.

That being said, I find some of the provisions of Bill C-16 hard to accept, namely those that deprive an individual of his right to appeal an unfavourable decision. Indeed, clauses 22 and 27 of Bill C-16 expressly provide that the decision is final and not subject to appeal.

Clause 22(3) of the bill provides that the order prohibiting the granting or resumption of citizenship is not subject to appeal to or review by any court. The decision is essentially based on an appreciation, by the Governor in Council, of the notion of public interest.

Clause 27(3) of the bill states that the Governor in Council's declaration that the grant or resumption of citizenship would be a threat to "national security" is not subject to appeal to or review by any court.

I do not like privative clauses. They prevent an individual from appealing or turning to the judicial system in order to have a decision reviewed. In extreme situations, I could understand that such an approach might be taken for reasons of national security. This could be considered a reasonable limit in a free and democratic society.

The privative clause in clause 22(3) of Bill C-16, however, does not strike me as acceptable. The notion of "public interest" is too vague, too imprecise. In *R. v. Morales*, the Supreme Court of Canada found that the notion of "public interest" was imprecise to the point of being unconstitutional. A comment on this decision is therefore in order.

R. v. Morales deals primarily with paragraph 11(e) of the Charter in relation to paragraphs 515(10)(b), 515(10)(a), and 515(6)(a) of the Criminal Code.

• (1520)

Let us recall briefly the facts of this case. Morales had been arrested and charged with drug trafficking. He was a member of a major network to import cocaine into Canada. His release was denied. After a bail hearing, Morales applied for a review, and was then released under certain conditions.

Under paragraph 515(10)(b) of the Criminal Code, there are two reasons that justify the pre-trial detention of an accused: First, the detention is necessary to ensure his or her attendance in court; and second, the detention is in the public interest, or necessary for the protection or safety of the public. The *Morales* decision has to do with the second reason, which is subdivided into two components: public interest and public safety.

According to Chief Justice Lamer, writing for the court, the criterion of "public interest" infringes section 11(e) of the Charter because it authorizes the detention of an accused in terms which are vague and imprecise. This is its "fatal flaw." It is a case of applying the doctrine of vagueness, and I quote Justice Lamer:

In my view the principles of fundamental justice preclude a standardless sweep in any provision which authorizes imprisonment. This is all the more so under a constitutional guarantee not to be denied bail without just cause as set out in s. 11(e). Since pre-trial detention is extraordinary in our system of criminal justice, vagueness in defining the terms of pre-trial detention may be even more invidious than is vagueness in defining an offence.

An absolute definition is not necessary, but the terms "public interest" allow too much scope for arbitrariness, according to Chief Justice Lamer. He goes even further, stating:

No amount of judicial interpretation of the term "public interest" would be capable of rendering it a provision which gives any guidance for legal debate.

As a result, the public interest component of paragraph 515(10)(b) of the Criminal Code violates section 11(e) of the Charter because it authorizes a denial of bail without just cause.

This violation is not justified under section 1 of the Charter. Even if the term "public interest" is capable of passing the threshold test of constituting a rule of law, the two objectives of paragraph 515(10)(b) are sufficiently important to justify violation of section 11(e) of the Charter. However, paragraph 515(10)(b) does not meet the proportionality test, for there is no rational connection between the measure and the objectives of preventing crime. As well, the measure does not impair section 11(e) rights as little as possible, because of its vagueness and excessive scope.

It is my conclusion that the "public security" criterion is compatible with section 11(e) of the Charter, according to the Supreme Court. This criterion provides just cause for refusal of release on bail, in compliance with section 11(e), according to Chief Justice Lamer. Returning to Bill C-16 itself, honourable senators, you will understand that I am not in agreement with the use of the concept of public interest in this bill, because it is overly vague.

It is, moreover, worthwhile pointing out that the courts may decide to intervene nevertheless, despite the existence of a privative clause, in the event of a serious violation of the

principles of natural justice, within the process leading to the decision to revoke or restore citizenship. This is in keeping with precedent in administrative law.

For this reason alone, Bill C-16 merits careful and detailed study. The Senate Standing Committee on Legal and Constitutional Affairs seems to me to be the ideal venue for such an examination.

[English]

Hon. Anne C. Cools: Honourable senators, I move the adjournment of the debate.

The Hon. the Speaker: It was moved by the Honourable Senators Cools, seconded by the Honourable Senator Chalifoux, that further debate be adjourned until the next sitting of the Senate.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I think this bill is ready to go to committee. Senator Finestone is ready to refer the bill. Does Senator Cools have a short speech?

Senator Cools: The comments I have to make simply cannot be completed in five minutes.

Hon. Marcel Prud'homme: Honourable senators, I intend to speak to this bill as well. I have worked for 35 years on citizenship issues.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Cools debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I note that the clock shows three minutes before the half-hour and we have an order to rise at 3:30 p.m. I request the consent of honourable senators to proceed to the adjournment motion, leaving all matters that have not been reached under Orders of the Day and on the Notice Paper standing in their place.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

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Thursday, June 22, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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THE SENATE

Thursday, June 22, 2000

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

MS MICHELLE DUST

TRIBUTE ON DEPARTURE

The Hon. the Speaker: Honourable senators, before I call for Senators' Statements, I should like to call forward our chief page, Michelle Dust.

[Translation]

Michelle is leaving after three years as a page.

[English]

Michelle plans to travel across Europe this summer before returning to Calgary in September to start her career as an accountant with the accounting firm Ernst & Young.

Hon. Senators: Hear, hear!

[Translation]

I also have the pleasure, honourable senators, of presenting her with her certificate.

[English]

Michelle Dust, Page, 1998-2000, in recognition of her exceptional contribution to the Senate Page Program.

Hon. Senators: Hear, hear!

[Translation]

SENATORS' STATEMENTS

NATIONAL MISSING CHILDREN DAY

Hon. Lucie Pépin: Honourable senators, this past May 25 was National Missing Children Day. Were you aware, honourable

senators, that more than 160 children go missing every day in Canada? This is one of the unfortunate figures given in a recently released report by the Missing Children's Registry of the RCMP. It also reports that more than 60,300 children were reported missing in 1999, which means, in other words, that close to seven children in Canada are reported missing every hour.

Nearly two-thirds of these 60,000 are runaways. According to the RCMP data, these children, who are mainly girls and mainly around the ages of 14 and 15, come from no particular social class. Most often, these are children from dysfunctional families where a parent or close relative has an alcohol or drug addiction problem or an abusive attitude toward the child, situations associated with physical, psychological or emotional abuse. Running away is one of the ways children respond to this situation; this is preceded by such things as decreased self-esteem, a tendency toward depression, if not suicide, academic or behavioural problems at school and abuse of alcohol, drugs or other illegal substances.

In addition to the runaways, other children wander off, are abducted by a parent or stranger, or are the victims of accidents. Despite all of the efforts expended by the RCMP and the various police forces in Canada, there are still close to 10,000 children whose disappearances remain unexplained. I do not dare to imagine their fate. I do know, as do you all, honourable senators, that sex trafficking involving girls and women still exists in Canada, and that it supplies prostitution rings both in Canada and elsewhere.

Honourable senators, you will agree with me that this situation is intolerable. It is all the more so because Canada is perceived, on the international level, as one of the best countries in which to live.

The fact that so many children are reported missing each year in Canada is cause for concern. How do we explain that such a high number of children — about 47,500 in 1999 — run away from the family home? These children are trying first and foremost to get out of a situation which they perceive as making them unhappy. They run away because they think they will find something better elsewhere. These children are looking for happiness, but it is not sure that they will find it when they run away.

We live in a world where communication between parents and their children is not always easy. Let me give you an example. An article recently published in a Montreal daily reported the results of a study by Judith Maxwell from the Canadian Policy Research Networks. The researcher said that, on average, parents now have to work the equivalent of over one and a half week to pay for their families' annual living costs, which include food, clothing, housing, education and recreational activities. According to Ms Maxwell, the work overload and the daily trips between daycare, school and other family activities create a level of stress which could eventually affect children and generate behavioural problems. However, the researcher stressed that this overload does not automatically result in problems with children, but that it was conducive to the emergence of such problems. She concluded by emphasizing the need to create an environment where family and professional responsibilities are in harmony.

In conclusion, honourable senators, we must better understand the phenomenon of missing children — and more particularly of runaways. We still know relatively little about this phenomenon, and it would be very much in our interest to do something about this gap in our knowledge by supporting associated research, for instance. We must listen to these children who run away from home, find out what drives them to do this, and understand how they interpret what they have done. We must also be sensitive to the pain of parents, understand their own perceptions and interpretations of their offspring's actions. In short, we must react to this unhappy situation affecting Canadian youth.

[English]

• (1410)

CANADIAN HUMAN RIGHTS ACT REVIEW PANEL REPORT

RECOMMENDATIONS ON SOCIAL CONDITION AS PROHIBITED GROUND OF DISCRIMINATION

Hon. Erminie J. Cohen: Honourable senators, some of you may recall that in December 1997, I introduced Bill S-11, to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination. It was a logical move following the publication of my report, "Sounding the Alarm: Poverty in Canada," when I asked for a recommendation to disallow the discriminatory practice based on economic status. There was a real need in Canada to protect the poorest Canadians against discrimination such as poor-bashing and stereotyping.

The Senate has a long and commendable history in the area of poverty and human rights and you, honourable senators, followed

that tradition when you passed Bill S-11 unanimously in June 1998. The bill, however, was defeated in the other place.

At that time, the Minister of Justice said there would be a comprehensive review of the entire Human Rights Act and that the issue of social condition would be addressed. A panel was then established by the minister to examine and analyze the Canadian Human Rights Act. That panel was chaired by the Honourable Gerard La Forest, former justice of the Supreme Court of Canada from New Brunswick. The following is a quote from the report:

The panel was asked by the Minister to consider the addition of a ground of "social condition" specifically. So we need to determine what this might mean, and, if we decide to recommend adding it to the Act, whether there should be a statutory definition.

The panel tabled their report yesterday, honourable senators. Eight pages of the report are devoted solely to social condition. In reading the report, you will find in its contents answers to some of the concerns you may have had in our earlier discussions. In the meantime, here are their recommendations:

124. We recommend that social condition be added to the prohibited grounds for discrimination listed in the Act;
125. that the ground be defined after the definition developed in Québec by the *Commission des droits de la personne* and the courts, but limit the protection to disadvantaged groups;
126. that the Minister recommend to her Cabinet colleagues that the government review all programs to reduce the kind of discrimination we have described here and create programs to deal with the inequalities created by poverty;
127. that the Act provide for exemptions where it is essential to shield certain complex governmental programs from review under the Act;
128. that the Act provide that both public and private organizations be able to carry out affirmative action or equity programs to improve the conditions of people disadvantaged by their social condition, and the other grounds in the Act; and,
129. that the Commission study the issues identified by social condition, including interactions between this ground and other prohibited grounds of discrimination and the appropriateness of issuing guidelines to specify the constituent elements of this ground.

Thank you, honourable senators, for your wisdom. You can pat yourselves on the back.

[Translation]

**THE HONOURABLE JEAN LESAGE
THE RIGHT HONOURABLE BRIAN MULRONEY**

Hon. Jean-Claude Rivest: Honourable senators, I wish to draw the attention of the house to two extremely important political events which marked the political life of Quebec and of Canada.

The first event is a particularly fortunate one. Forty years ago, on June 22, 1960, Jean Lesage took over leadership of public affairs in Quebec. Mr. Lesage had spent part of his career in Ottawa and he therefore had a good knowledge of the quality and nature of Canadian public administration. During Quebec's Quiet Revolution, he was thus able to contribute to a public administration reform which helped Quebec come into its own. These years saw the birth of modern Quebec and set the stage for all Quebecers and Canadians to achieve excellence as a society in countless fields.

Tribute must be paid to the eminent contribution of Jean Lesage, this very great Quebecer and very great Canadian, and of course, mention must be made of all those who were part of that contribution, first and foremost of those being my friend Senator Lise Bacon, who supported Mr. Lesage to the very end, Senator Raymond Setlakwe, Senator Roch Bolduc, who was a senior bureaucrat under Mr. Lesage, and Senator Arthur Tremblay.

It is appropriate that this event be commemorated, given its great significance in making Quebec the turbulent society that it is now within Canada, on occasion a troublesome thorn in the side for many Canadians. All Canadians acknowledge, however, that what Quebec has become today, thanks to Jean Lesage, constitutes an essential attribute of the definition and authenticity of the cultural and political personality of Canada.

The contribution of Mr. Lesage was not to Quebec alone but also to Canada.

The second event, honourable senators, is a less fortunate one, but one that does enable me to express all of the gratitude of myself and of the Quebec people to another great Quebecer and great Canadian who had a fair, generous and creative vision of the future of Quebec and of Canada, the Right Honourable Brian Mulroney. Along with the Premier of Quebec of the day, Robert Bourassa, he initiated the process of the Meech Lake Accord, the failure of which we must regretfully mark tomorrow.

This was a unique, historic and absolutely necessary initiative in the reconciliation of Quebec society with Canadian society. Still today, honourable senators, we are measuring the disastrous consequences of that failure on Canadian political life.

As a member of the Liberal Party of Quebec, I attribute the major difficulties the Liberal Party of Quebec has experienced since that time to the failure of the Meech Lake Accord. Anyone consulting recent polls will see that, should there be a federal election tomorrow morning, 40 per cent of Quebecers and

therefore 60 per cent of francophone Quebecers, would support the separatist parties.

Those who sabotaged the Meech Lake Accord must reflect on that. If that accord had been passed, we would not be having to deal with the Bloc Québécois, we would not have had to go through the rigours of the 1995 referendum, and the excellent Professor Dion would still be teaching at the Université de Montréal. Also, far from the least significant of consequences, we would not have Bill C-20. The Senate caucus would not be divided on such a matter. In short, it would be virtually heaven on earth.

Of course, that was not what Mr. Mulroney, Prime Minister of Canada at the time, had in mind. Prime Minister Mulroney's vision of the relationship between Quebec and Canada was, and remains, the most accurate vision ever to have been held by a Canadian political leader since Lester B. Pearson. That this vision is fully shared by Paul Martin and many other members of the Liberal Party of Canada only reinforces my conviction.

Unfortunately, this vision could not find expression, but a day will come when such expression will become imperative if we are to see the end of these continual, destructive tensions from both Quebec and Canadian society.

It is not, honourable senators, through band-aid solutions such as those before us that we will resolve this fundamental problem. What we need, and need as quickly as possible, are people of vision, people like the Right Honourable Brian Mulroney, Robert Bourassa, and all the other premiers of the day.

[English]

• (1420)

UNITED NATIONS

PUBLICATION OF THE MILLENNIUM SUMMIT
MULTILATERAL TREATMENT FRAMEWORK—
INFLUENCE ON INTERNATIONAL LAW

Hon. A. Raynell Andreychuk: Honourable senators, I wish to bring to your attention two initiatives being undertaken by the United Nations that are worthy of our support.

On May 15, 2000, the Secretary-General of the United Nations sent a letter to all heads of state or government inviting them to take the opportunity presented by the Millennium Summit, to be held in New York September 6 to 8, 2000, to sign and ratify or accede to the multilateral conventions deposited with him.

For the information of senators, there were 514 multilateral treaties deposited with the Secretary-General as of May 15, 2000, which cover the whole spectrum of human interaction. I am pleased to say that the United Nations has published a document entitled "The Millennium Summit Multilateral Treaty Framework." This publication puts in place for the first time a concise guide to these international instruments.

Within the document, for the first time, are listed all of the multilateral treaties in a compendium that is brief and inclusive. It is an easy guide. Perhaps this guide would be useful for the recently constituted all-party Parliamentary Human Rights Group, which has indicated a desire to study treaty ratification and implementation as it affects Canada.

I wish to commend His Excellency Mr. Hans Corell, Legal Counsel and Under-Secretary-General of the United Nations, for the second initiative. Mr. Corell has quoted from a book by Brian Urquhart and Erskin Childers entitled *A World in Need of Leadership: Tomorrow's United Nations*. They state:

International law, only yesterday a seemingly quiet backwater in human affairs, is reaching into hitherto unimagined fields. The Nations of the world have acceded to an unprecedented number of agreements in virtually all branches of human activity, from the ocean floor to the planet's climate to outer space, in only the last 40 years. There has been a truly astonishing growth of public international law which will accelerate into the coming century. The pressing need for an international system based on law has never been so evident.

With this in mind, Mr. Corell has written to all deans of law schools worldwide, appealing to them to incorporate international law into the curriculum of law schools. In some schools, international law is taught. In others, it is sometimes given marginal attention. In all cases, there is a need to integrate fully international law into the curricula of law schools.

Honourable senators, a committee of the United Nations has been sent up to further this end. I am pleased to note that Professor Sharon A. Williams, Professor of International Law at Osgoode Hall Law School, York University, has agreed to assist in this project.

With our increasing attention to post-secondary education in Canada in this chamber, and with the increasing globalization and the growth of international law, it would be of benefit to support this initiative. I urge senators to encourage law schools in their regions to give more support and credibility to international law in their curricula.

The Hon. the Speaker: I regret to inform the Senate that, although I have two senators remaining on my list of speakers, the 15 minutes for Senators' Statements has expired.

[Translation]

ROUTINE PROCEEDINGS

AUDITOR GENERAL

ANNUAL REPORT ON PRIVACY ACT, 1999-2000 TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the report from the Office of the Auditor General entitled "Annual Report 1999-2000, Privacy Act," pursuant to section 72 of the Privacy Act.

[English]

LAW ENFORCEMENT AND CRIMINAL LIABILITY

WHITE PAPER TABLED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have the honour to table a white paper of the Government of Canada on Law Enforcement and Criminal Liability, dated June of this year, to which is appended a draft proposal for an amendment to the Criminal Code involving protection from criminal liability of public officers.

[Translation]

OFFICIAL LANGUAGES

THIRD REPORT OF JOINT COMMITTEE TABLED

Hon. Rose-Marie Losier-Cool: Honourable senators, I have the honour to table the third report of the Standing Joint Committee on Official Languages concerning a study undertaken on the implementation of Part VII of the Official Languages Act.

[English]

EMERGENCY AND DISASTER PREPAREDNESS

REPORT OF NATIONAL FINANCE COMMITTEE
ON STUDY TABLED

Hon. Lowell Murray: Honourable senators, I have the honour to table the ninth report of the Standing Senate Committee on National Finance concerning the study conducted on Canada's Emergency and Disaster Preparedness.

PRIVILEGES, STANDING RULES AND ORDERS

SIXTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Privileges, Standing Rules and Orders, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Privileges, Standing Rules and Orders has the honour to present its

SIXTH REPORT

1. On Wednesday, May 3, 2000, Senator David Tkachuk gave notice of a question of privilege with respect to a story that had appeared that day in the *National Post*, entitled "Senate report urges capital gains tax cut." The question of privilege was dealt with on Thursday, May 4, 2000, at which time the Speaker *pro tempore* ruled that a *prima facie* breach of privilege existed. Accordingly, Senator Tkachuk moved the following motion, which was agreed to by the Senate:

That the question of privilege concerning the unauthorized release of the Fifth Report of the Standing Senate Committee on Banking, Trade and Commerce be referred to the Standing Committee on Privileges, Standing Rules and Orders.

2. Your Committee held a meeting on this order of reference on Wednesday, May 10, 2000, at which Senator Tkachuk and Senator Leo Kolber, the Chair of the Banking Committee, were in attendance. Your Committee also considered this matter at *in camera* meetings on Wednesday, May 17, 2000 and May 31, 2000.

3. The news story in the *National Post* referred to the report of the Standing Senate Committee on Banking, Trade and Commerce on the taxation of capital gains. It quoted extensively from the final version of the report, which had been approved by the Committee, but not yet presented in the Senate. The article specifically referred to the fact that the Committee's report had not been released. As a result of the premature publicity, Senator Kolber, as the Chair of the Committee, tabled the Fifth Report in the Senate on May 3, 2000, several days earlier than had been planned.

4. There is no doubt that the Fifth Report of the Standing Senate Committee on Banking, Trade and Commerce was leaked to the media. The report had been adopted by the Committee at *in camera* meetings, and had not yet been tabled in the Senate. The publication of the news story in the *National Post* on May 3, 2000 was unauthorized and premature. It appears that the reporter had access to a copy of the final version that was to be tabled. This clearly constitutes a breach of the privileges of the Senate, and a contempt of Parliament.

5. The issue of leaked committee reports has preoccupied your Committee for the last several months. Previously, Senate committees had not experienced major problems with the unauthorized release of their reports or other confidential documents. The recent spate of leaks is a disturbing development, and one that is to be deplored.

6. The work of the Senate and of Senators depends upon trust and collegiality. Whenever a leak occurs, it compromises the integrity of the chamber and its work. As Senator Tkachuk told your Committee, the premature release of the Fifth Report hurt the Senate, and was dishonourable to all Senators; it undermined a media plan that had been developed for the report and made the work of the Banking Committee and of the Senate more difficult.

7. Your Committee's Fourth Report, which was tabled in the Senate on April 13, 2000, set out a procedure for dealing with leaked committee reports. Essentially, it proposed that the Committee concerned first investigate the leak, in an attempt to determine the source, and assess the seriousness of the leak. Although this report had not yet been agreed to by the Senate, your Committee decided to use this case to illustrate how such an investigation might be conducted.

8. Senator Kolber advised your Committee that he had convened an informal meeting of the members of the Standing Senate Committee on Banking, Trade and Commerce Committee, but that none of the members present accepted responsibility for the leak. Your Committee, in turn, invited all of the members to its meeting on May 10, 2000, and several of them were able to attend. Subsequently, your Committee sent a letter with a short questionnaire to all members of the Banking Committee asking if they had leaked the report or had any knowledge of the source of the leak. All members responded in the negative to this letter. The Committee also made inquiries of the clerk of the Committee, as well as the assistants to various members of the Committee who had been identified as having had access to or requested copies of the final report. Attempts were made to trace all the copies of the final version of the report.

9. Your Committee has been unable to identify the source of the premature and unauthorized release of the Fifth Report of the Standing Senate Committee on Banking, Trade and Commerce. We have not been able to find or establish any clear evidence indicating who leaked the report or how the reporter for the *National Post* received the information or a copy of the report on which he based his story of May 3, 2000.

10. This case further reiterates the need for all Senate committees to review and be vigilant about the procedures for dealing with confidential documents. As your Committee pointed out in our Fourth Report, various procedures could and should be adopted by committees during the drafting and consideration of reports prior to their being tabled in the Senate. The Senate must take steps to ensure that systems and security precautions are in place to prevent leaks, and to ensure the confidentiality of committee documents, including draft reports before they are tabled in the Senate. Similarly, in order to minimize the risk of premature and unauthorized leaks, it is necessary that all persons involved in the process be aware of the requirements of confidentiality and the sanctions for breaching it.

11. It would be extremely unfortunate if the leaking of committee documents became as widespread in the Senate as it has in other legislatures. Most Senators are determined that this should not be allowed to occur. Your Committee believes that it is the collective responsibility of all Senators and the Senate administration to ensure that the confidentiality of draft committee reports and other documents is respected and maintained.

12. Consideration was given to the development of a process whereby a Committee could be authorized to release a report prior to its tabling in the Senate on an embargoed basis to members of the Parliamentary Press Gallery without breaching the privileges of the Senate. The Committee, however, makes no recommendations at this time.

Respectfully submitted,

JACK AUSTIN
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Austin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Privileges, Standing Rules and Orders, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Privileges, Standing Rules and Orders has the honour to present its

SEVENTH REPORT

1. Your Committee has concerns regarding the length of time of Senators' Statements. Rule 22(6) limits Statements to "no more than three minutes". A practice has developed, unfortunately, whereby leave is regularly sought to extend this time. As Rule 22(4) states, the purpose of Statements is to raise matters that need to be brought to the urgent attention of the Senate. This is an important and useful opportunity for Senators, but the Statement should be short – it is not intended to be a speech.

2. Your Committee recommends that the three-minute rule for Senators' Statements be rigorously enforced, and that no leave to extend the remarks be permitted to be sought or granted; and therefore, that Rule 22(6) be deleted and replaced as follows:

"(6) Senators making interventions during this time shall be limited to speaking once for no more than three minutes".

3. Your Committee also recommends that Rule 22(7) be deleted and Rules 22(8) to (10) be re-numbered accordingly.

Respectfully submitted,

JACK AUSTIN
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Austin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

EIGHTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Privileges, Standing Rules and Orders, presented the following report:

Thursday, June 22, 2000

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

EIGHTH REPORT

Pursuant to Rule 86(1)(f)(i) of the *Rules of the Senate*, your Committee has examined the issue of establishing new committees, and now makes the following recommendations.

Your Committee recommends that the Rules of the Senate be amended by adding after Rule 86(1)(q), the following new Rules 86(1)(r) and (s):

“(r) The Senate Committee on Defence and Security, composed of seven members, three of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to defence and security generally, including veterans affairs.

(s) The Senate Committee on Human Rights, composed of seven members, three of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to human rights generally.”

Respectfully submitted,

JACK AUSTIN
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Austin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**INCOME TAX ACT
EXCISE TAX ACT
BUDGET IMPLEMENTATION ACT, 1999**

BILL TO AMEND—REPORT OF COMMITTEE

Hon. E. Leo Kolber, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred the Bill C-25, An Act to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999, has examined the said Bill in obedience to its Order of Reference dated Wednesday, June 14, 2000, and now reports the same without amendment.

Respectfully submitted,

E. LEO KOLBER
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Poulin, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for consideration later this day.

• (1430)

CANADA LABOUR CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-12, An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts, in obedience to the Order of Reference of Thursday, June 15, 2000, has examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kirby, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill S-5, An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate), in obedience to the Order of Reference of Tuesday, February 22, 2000, has examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kirby, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

A BILL TO CHANGE THE NAMES OF CERTAIN ELECTORAL DISTRICTS

REPORT OF COMMITTEE

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill C-473, An Act to change the names of certain electoral districts, has, in obedience to the Order of Reference of Tuesday, June 13, 2000, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

LORNA MILNE
Chair

(For text of observations, see today's Journals of the Senate, p.???)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF RIMOUSKI—MITIS

REPORT OF COMMITTEE

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-445, An Act to change the name of the electoral district of Rimouski—Mitis, has, in obedience to the Order of Reference of Tuesday, June 13, 2000, examined the said Bill and now reports the same without amendment.

Your Committee notes that the observations to its Seventh Report, presented to the Senate earlier this day, also apply to this Bill.

Respectfully submitted,

LORNA MILNE
Chair

The Hon. the Speaker: Honourable senators, honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, with leave of the Senate and notwithstanding rule 58(1)(b) bill placed on the Orders of the Day for third reading later this day.

CAPE BRETON DEVELOPMENT CORPORATION DIVESTITURE AUTHORIZATION AND DISSOLUTION BILL

REPORT OF COMMITTEE

Hon. Mira Spivak, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, June 22, 2000

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-11, An Act to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Corporation Act and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Thursday, June 15, 2000, examined the said Bill and now reports the same without amendment, but with observations which are appended to this report.

Respectfully submitted,

MIRA SPIVAK
Chair

(For text of observations, see today's Journals of the Senate, p. 784.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Boudreau, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I request leave to revert to government notices of motion later this day for the purposes of dealing with the adjournment motion, as well as for leave to make a comment on the substance of that motion and report on progress in my negotiations with the Deputy Leader of the Opposition on Senate business.

The Hon. the Speaker: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Honourable senators, it is difficult to say no, but the deputy leader already knows what time he will most likely debate this matter. Anyone who wants to ask him questions will have to sit here without moving until, perhaps, midnight. Could we have an approximate time when the deputy leader intends to make this request?

Senator Oliver: Tell us now.

Senator Hays: I gather I have leave. You are not withholding leave?

Senator Prud'homme: No.

The Hon. the Speaker: This is a question before leave is granted, I gather.

Senator Hays: I am not sure I follow. Could I ask Senator Prud'homme if I could have leave to indicate when I will adjourn to report on the progress of negotiations regarding Senate business and to deal with any questions that may arise?

Senator Prud'homme: All right.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Hays: I propose, honourable senators, once we have dealt with the items on the Notice Paper, when we adjourn to the time provided for in the rules, to move a motion for which I will require leave. This leave is simply to revert to notices of motion. Honourable senators, I propose to move a motion at that time, which is at the end of the Notice Paper. In other words, just before we adjourn, I will move a motion to adjourn until 2 p.m. on Tuesday next.

● (1440)

By then, I also hope to have an agreement as to a voting time on Bill C-20. Honourable senators will recall from the exchange between the Deputy Leader of the Opposition and myself yesterday that we were looking to agree on a voting time of 4 p.m. Thursday next.

As to the motion to adjourn until Tuesday, I am not sure what will happen, for example, if we have a standing vote called for today. That is one of the reasons this motion comes at the end of the *Order Paper and Notice Paper*. I am confident that we can reach agreement on the voting time. That is why I am leaving the adjournment motion to the end of our business day.

As I say, I have not quite yet finalized the voting time for Bill C-20. However, I suspect it will be at 4 p.m. next Thursday. I propose to do it at the same time, which is what it will be if matters move along accord to the way things look now. Senator Kinsella may wish to comment.

My announcement could come late in the day because, as honourable senators know, we have a great many items on our Order Paper today. For instance, I do not propose to call Bill C-20 first. I will call it after some of the government bills awaiting third reading, which have been sitting on the Order Paper, have been considered.

Also, as honourable senators will note, we have been requesting and receiving leave for consideration later this day of some committee reports. This is all part of our arrangement that we not sit tomorrow.

The Hon. the Speaker: Honourable senators, the request for leave by the Honourable Senator Hays is to revert later this day to Government Notices of Motions for the purpose of the adjournment motion and to report on the discussions regarding the disposition of votes on Bill C-20. Is leave granted, honourable senators?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to confirm that Senator Hays has reflected accurately where we are at.

While I am on my feet, I wish to ask that the Table circulate forthwith those committee reports that have been presented and which we are to consider later this day.

The Hon. the Speaker: Is leave granted, honourable senators, to revert to Government Notices of Motions later this day?

Hon. Senators: Agreed.

CONFERENCE OF MENNONITES IN CANADA

PRIVATE BILL TO AMEND—FIRST READING

Hon. Sharon Carstairs presented Bill S-28, to amend the Act of incorporation of the Conference of Mennonites in Canada.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Tuesday next, June 27, 2000.

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— POSSIBLE PURCHASE FROM COMPANY IN FRANCE

Hon. J. Michael Forrestall: Honourable senators, recently I received from the Leader of the Government in the Senate two delayed answers, one dated May 18 and the other June 1. They are virtually identical responses to questions I have been posing with respect to fair and equitable competition for a seaboard replacement helicopter. I have stated that a fair and equitable competition should be held on the basis of the statement of requirement, if not from the original tender call which was cancelled by this government, then at the very least a statement of requirement similar to the one used for the search and rescue replacement which is now in the process of being built.

The Prime Minister of Canada is in France and rumours persist, rightly or wrongly —

Senator Prud'homme: He is doing well!

Senator Forrestall: Wait until honourable senators hear what he is doing and what he has done today!

Honourable senators, I want to be assured that there is no misunderstanding whatsoever that there will not be a direct contract to Eurocopter for the replacement of the Sea King.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the answers that are now in the possession of the honourable senator reflect the views of the minister, the department and, indeed, the government. I have no information beyond that or any specific information, for example, to address rumours that there is any attempt by the Prime Minister, or anyone else, to make any helicopter arrangements on his trip to France.

REPLACEMENT OF SEA KING HELICOPTERS—PROCUREMENT PROCESS—REQUEST FOR STATEMENT OF REQUIREMENTS

Hon. J. Michael Forrestall: Honourable senators, would the Leader of the Government table in this house a copy of the statement of requirement for the shipboard helicopter, bearing in mind that I have at hand the statements of requirement for the Cormorant and the EH-101? If the statement of requirement does not go below that standard and there is no other technical, secret reason why it should not be tabled, could it be tabled or could a copy be made available to those of us who are interested? I wish we had a standing committee on national defence. This is a very proper question for senators to be looking at at this point in time. However, we do not have such a committee. I should like to have a copy so that I might compare it with the SORs for the Cormorant and the EH-101. I am certain it is not a restricted document. I do not see why it would be, unless there has been a lowering of the standard of the operational requirement so as to permit Eurocopter to bid.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I think I understand the honourable senator's request, what he is looking for and why he is looking for it. I shall pass that request along to the minister and respond in due course.

FOREIGN AFFAIRS

CAMEROON—CURRENT POLITICAL SITUATION— GOVERNMENT POLICY

Hon. A. Raynell Andreychuk: Honourable senators, I have noted that Minister Axworthy will be going to Peru on good governance issues. While that may be worthy, the damage in Peru has already been done. In that light, what is Canada's position with respect to Cameroon? Amnesty International has published their report on Cameroon, indicating that there are widespread and systematic tortures of prisoners and that, in fact, most of these prisoners are of a political nature and that the actions are against a minority. In this case, the minority is anglophone.

In the past, we have done a lot of work to try to bring measures of good governance to Cameroon so that all parties take into account the French and English fact in Cameroon. However, it would appear that the majority party is now targeting the opposition and the minority.

• (1450)

What is Canada's position with respect to Cameroon?

Hon. J. Bernard Boudreau (Leader of the Government):

Honourable senators, as a preface to my response I wish to say that my immediate predecessor in this office was involved in an international commission that went to that country some time ago. I believe the Honourable Senator Graham has a unique understanding and perspective on the problems that have existed in that country for some time.

Honourable senators, the type of activity that Senator Andreychuk describes certainly does not have the approval of this government. As to the minister's specific response to recent action there, I shall request an update from the minister.

Senator Andreychuk: When the Leader of the Government in the Senate makes his request of the minister, I would ask him to encourage prevention, by moving in earlier, rather than waiting until the situation deteriorates to a point that a large cost in human lives and humanitarian aid is the result. Perhaps we have been too reticent to move in and identify the issues with our colleagues in other countries. I make the appeal that more preventative action be assured by the minister in his reply to my question.

Senator Boudreau: The honourable senator makes a good point. I shall attempt to have that addressed by the minister with some degree of urgency, and I shall encourage a response as soon as possible.

PRIME MINISTER

VISIT TO FRANCE—REQUEST FOR RECALL

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate.

Could the minister advise us as to whether or not the government is giving consideration to summoning the Prime Minister back to Canada from his European trip, to which Senator Forrestall has just alluded? I ask that it be done before the Prime Minister makes another diplomatic blunder, such as the blunder today where Mr. Chrétien embarrassed President Jacques Chirac of France by announcing that he will be seeking re-election.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I do not believe there is any intention of the Prime Minister to cut short his trip.

Senator Forrestall: I doubt it either but let's recall him anyway.

Senator Kinsella: Honourable senators, if that is the case, then I am sure every Canadian must be concerned with what appears to be a genetic flaw within the Chrétien family in terms of getting involved in presidential elections, whether in France or in the United States, in reference to the recent comments of his nephew.

As honourable senators would know, in France, the President's office is above partisanship. It is the custom in France for presidents not to be announcing early on whether or not they intend to seek re-election. Today, in Paris, President Chirac and his staff are scrambling because of this embarrassment. Does the government not think that France is important enough as a nation, one with which we do significant trade, that the Prime Minister should be recalled before he does further damage?

Senator Boudreau: Honourable senators, the relations between France and Canada have never been warmer and more productive, in large measure, due to the Prime Minister. I should think the members opposite and, in particular, their party, would be more concerned at the prospect of, perhaps, President Chirac announcing that Prime Minister Chrétien would rerun in our next election.

Senator Kinsella: He already told us that. Were you not at your national convention?

Senator Boudreau: I simply say that against the context of some of the world situations, one of which I have just addressed in my previous answer. This is not the most earth-shattering piece of news we are likely to encounter in the next few weeks.

Senator Lynch-Staunton: It's another blunder, that's all.

[Translation]

FOREIGN AFFAIRS

DISSATISFACTION OF EMPLOYEES OF DEPARTMENT

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. For some time, there have been media reports of dissatisfaction among senior staff at the Department of Foreign Affairs. Morale is low, both at the Canadian embassy in Washington and elsewhere — Ottawa included — to such an extent that the Minister of Foreign Affairs, when he is in Ottawa from time to time, receives visits from ministers and diplomats, and some departmental employees are even picketing at the entrance to the Pearson Building, complaining about their salaries. I can understand that such a thing can happen, but it is unfortunate that it is happening at Foreign Affairs.

There are, of course, unions and discussions. All public servants want to have their chance at a little more. However, seeing the Canadian diplomatic service — the pride of our public service — in such a state leads us to conclude that there is something seriously wrong.

The Minister of Foreign Affairs ought to stay in Canada for a few days to settle this problem. This is not a question, honourable senators, but merely a comment.

[English]

Hon. A. Raynell Andreychuk: Honourable senators, I have a supplementary question on that subject. The issue of pay rates for staff of the Foreign Affairs Department is becoming a critical issue, and we have spoken about this before. The most troubling aspect is that those within the service in what I would call middle and upper management — what would be our rising stars for the ambassadorial positions — are more entrapped than others. Yet the top level has received sizeable increases. There is a disparity within the department.

Why does the government give large increases to the top layer and not to the rest? It is an injustice. How can we live with that?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I appreciate the concern of both senators in raising this issue. Canada has a very able and professional public service and diplomatic corps, which has performed remarkably well in many difficult situations across the world. I know the minister is very sensitive to the problems that the honourable senators have raised. Whenever there are increases, usually some people are not happy. I do not say that by way of minimizing what is a situation that I believe the minister is taking very seriously and is reviewing.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, perhaps a suggestion ought to be made to the Foreign Affairs Committee. A few years ago, when I chaired the External Affairs and National Defence Committee in the House of Commons, there were problems within the department. At that time, the problem was the situation of married couples, particularly the situation of men whose wives were promoted.

[English]

I stand to be corrected on the name. We might call them to the Foreign Affairs Committee, where they could have their say and explain exactly what the problems are that they face. I had wanted to ask the question of the chairman, but he is temporarily absent.

Honourable senators, I would suggest that the Foreign Affairs Committee look into the possibility of having a few meetings with this association, which represents the finest of our foreign service officers. I feel that such a review would go a long way to

re-establishing good rapport between governments, foreign service officers, and their union.

Senator Boudreau: Honourable senators, I thank the honourable senator for that suggestion. I saw the chairman here just moments ago. He must have stepped out for the moment. I shall pass along that suggestion to him.

• (1500)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on June 19 and 20 by Senator Forrestall regarding a request for a moratorium on heritage lighthouses while the Fisheries Committee reviews Bill S-21; and a response to a question raised in the Senate on May 30 of this year by Senator Forrestall regarding the report on restructuring reserves, viability of the militia.

HERITAGE FISHERIES AND OCEANS

REQUEST FOR MORATORIUM ON HERITAGE LIGHTHOUSES WHILE FISHERIES COMMITTEE REVIEWS BILL S-21

(Response to questions raised by Hon. J. Michael Forrestall on June 19 and 20, 2000)

While the Department of Fisheries and Oceans (DFO) appreciates the intended purpose of Bill S-21, to protect lighthouses, the Department believes that the objectives of protecting and preserving heritage lighthouses can be achieved through existing federal legislation and policies.

DFO is sensitive to the desires of community oriented groups who wish to use, acquire and preserve lighthouses and is doing its best to assist communities and interest groups achieve their goals while working within federal policies and available resources.

NATIONAL DEFENCE

REPORT ON RESTRUCTURING RESERVES— VIABILITY OF MILITIA—RESPONSE OF GOVERNMENT

(Response to question raised by Hon. J. Michael Forrestall on May 30, 2000)

The Government is committed to revitalizing the Reserves to ensure that they are viable, sustainable, relevant to current operational requirements and an essential part of the Canadian Forces' structure. Mr. Fraser's comprehensive and detailed report provides a strong foundation for moving the reform process of the Militia forward.

The Government must ensure that the Reserves remain effective, viable and sustainable and allow our Reserves to make a real contribution to Canada. To this end, incremental funding in the amount of \$30 million has been provided to the Army by the Vice-Chief of the Defence Staff to sustain the funding level for militia personnel during the Reserve restructuring process. It was intended that this funding would be available to support change. In the short term, it is helping to fund the introduction of new training and equipment. As, and when, decisions on Reserve restructuring are taken, it will also be used to fund the required implementation action. The \$30 million in question does not mean any decisions have been made with respect to Reserve restructuring.

Mr. Fraser's report is one important step in deciding how to proceed with Reserve restructuring. Another important step is the work being done by Lieutenant-General Mike Jeffery, the special assistant to the Chief of the Defence Staff on restructuring. Lieutenant-General Jeffery continues to consult with interested stakeholders in Reserve restructuring. The Minister expects to receive his findings this summer so that timely decisions on restructuring can be taken.

[Translation]

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before proceeding with the Orders of the Day, it is impossible, as you know, for the Speaker to hear points of order until we get to Orders of the Day. The Honourable Senator Gauthier rose earlier, and I invite him to do so now.

[English]

Hon. Jean-Robert Gauthier: Your Honour, thank you for seeing me. I will get a flag and wave it when I want to get my point across.

On a point of order, a difficulty arises when we proceed as quickly as we did today. We have a huge deluge of reports being tabled. It is difficult for an ordinary senator who does not have the information that others may have to follow along, especially when someone says "stand" or "dispense" to the reading of a report from a committee. We have no idea what we dispensed with because no one read the information.

Your Honour, I should like a point of information. The chairman of the Standing Committee on Privileges, Standing Rules and Orders presented the eighth report creating two new committees of this house. I want to ensure that when the debate

occurs on that report, I am here to discuss it. Knowing how time is compressed right now, I should like some indication as to when the debate on these tabled reports will take place.

The Hon. the Speaker: Honourable Senator Gauthier, I do not believe that is a point of order, but you have a reasonable question. The report was referred for consideration to the next sitting of the Senate. Therefore, depending upon when we meet next, which I believe shall be Tuesday next, the report should be up for consideration at that time.

[Translation]

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order. I think that Senator Gauthier raised an important point and it is by pure coincidence that he did so, because I had made a note to raise the same point.

When we dispense the Clerk from reading a report, we generally stop him before he has had time to tell us whether the bill was reported with or without amendments. I think it would be helpful not to interrupt him before the house has been informed whether the bill is being reported with or without amendments.

In certain cases, because of the particular interests of senators, honourable senators could later obtain the document in question from the Table officers.

If there are no amendments in the report, there is no problem. However, we wish to be so advised. It would be preferable for the Clerk to read the report at least that far. That is the argument being made by Senator Gauthier and I share his view.

Hon. Marcel Prud'homme: Honourable senators, today, many reports from various committees were presented which consisted of one page only, with the text of the report not attached. We do not know the contents of the report. However, we already know that —

[English]

— later today, we shall look into it.

[Translation]

Yes, but we do not have the reports. They are not printed. We have only a one-page document. The honourable senator is requesting permission to proceed to a study —

[English]

Later today, thank you, or sit down, and later today, we do not know what that report is.

[Translation]

As for the report on the creation of new committees —

[English]

I want to bring to the attention of senators that they have been called upon to take an extremely important decision. I am referring to the creation of two new committees. That report could pass so fast that we may only realize what we have done after it has been accepted. As far as I am concerned, the creation of these two new special committees is totally and absolutely related to a decision that some senators refuse to take on the importance of independent senators and their participation on committees, or non-participation.

[Translation]

The Hon. the Speaker: Senator Prud'homme, I am sorry to interrupt. You are addressing the contents of the report and not the point of order. I should like to point out —

[English]

— whenever anyone says “dispense,” if any honourable senator disagrees, all that honourable senator need do is say no, in which case the Table will read the complete report. Do not hesitate to say no.

It is the same procedure when leave is requested. Leave is a request to do something that is not normal. If any senator disagrees, the senator simply says no, and that is the end of it.

In the case of committee reports today, some were reported for consideration later this day and others for consideration at the next setting of the Senate. When a bill is reported without amendment, it automatically moves to third reading at whatever time is required, not to further consideration.

The Table advises me that the bills that are on the Order Paper for third reading later this day are Bill C-25, Bill C-12, Bill C-473 and Bill C-445.

Senator Prud'homme: We will get them sometime soon, then.

Senator Gauthier: Honourable senators, I have trouble hearing and I have to depend on a computer translation of the debate currently taking place.

The Hon. the Speaker: Honourable Senator Gauthier, I am prepared to hear you.

Hon. Anne C. Cools: Honourable senators, Senator Gauthier wishes to say something. I am sorry that he has been frustrated, but we should be listening to him.

[Translation]

The Hon. the Speaker: Honourable Senator Gauthier, I am prepared to listen to you.

[English]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, now that we are on Orders of the Day, Government Business, I should like to call, as the first matter for debate, Order No. 2, the third reading of Bill C-34, the grain handling bill.

It might be useful if I indicate to honourable senators the next three or four items in the order in which I would intend to call them.

Senator Prud'homme: That is fair!

Senator Hays: I should like to call Order No. 2 first, as I indicated; Order No. 3, which is Bill C-22, second; and Order No. 4, Bill C-16, the Citizenship of Canada Act, third. Following that, I shall request leave to bring forward the report of the National Finance Committee on their study of the Estimates. If we have leave to deal with that item, I shall then call Bill C-42.

CANADA TRANSPORTATION ACT

BILL TO AMEND—THIRD READING

Hon. Jack Wiebe moved the third reading of Bill C-34, to amend the Canada Transportation Act.

He said: Honourable senators, I am extremely pleased to rise at third reading debate of Bill C-34, which amends the Canada Transportation Act.

The bill initiates changes to an industry that exports billions of dollars worth of grain each and every year to markets all over the world. Until now, the system that moves the product from country elevators to ports has suffered some periodic breakdown and a lack of accountability. These problems were exacerbated during the winter of 1996-97 when the grain handling transportation system completely broke down on the Prairies.

• (1510)

The bill that we have before us now is a product of a consultative policy process for over three years. During that period of time, the government listened to producers, to the Wheat Board, to grain companies, to railways and to others. This bill is the right piece of legislation to move that system forward today.

The consultative process on this bill started in Winnipeg in July 1997. The Minister of Transport, along with the Minister responsible for the Canadian Wheat Board and the Minister of Agriculture, met with industry stakeholders to discuss the logistics problems of the previous winter. There was a strong consensus at this meeting that the status quo was no longer acceptable and that the grain handling and transportation system in this country needed to be changed.

The government acted quickly on this message and —

The Hon. the Speaker *pro tempore*: Honourable senators, there is a lot of noise here. Your conversations would be much more interesting over a cup of tea in the Reading Room. That would allow other honourable senators to hear the speech.

Some Hon. Senators: Hear, hear!

Senator Wiebe: Honourable senators, once I have completed my remarks, I shall join you for a cup of tea.

Let me repeat.

The government acted quickly on this message and appointed former Supreme Court justice Willard Estey to conduct a comprehensive review of the entire system.

Through the course of one year, former justice Estey convened 147 meetings with over 1,000 stakeholders. He listened to their ideas and concerns about possible new directions for grain transportation. In December 1998, Mr. Estey submitted 15 recommendations on the commercialization of the grain handling and transportation system. The government endorsed Mr. Estey's vision of a more commercial system and appointed Mr. Arthur Kroeger to turn Mr. Estey's ideas into concrete proposals for implementation.

During the summer of 1999, Mr. Kroeger consulted with the industry stakeholders through a steering committee and three technical working groups. Mr. Kroeger was able to reach a consensus on a number of issues. However, no agreement could be found on some key issues. These included: the starting level for the annual cap on railway revenues, the transportation role of the Canadian Wheat Board, and the question of how to achieve enhanced railway competition.

In the end, Mr. Kroeger completed his terms of reference by providing his recommendations for those unresolved issues. This bill contains four main provisions dealt with by Mr. Kroeger, and they amend the Canada Transportation Act. I described all four of those to you during the debate on second reading of this bill.

Honourable senators, the grain handling and transportation system is very complex. Throughout the government's consultations, no two stakeholders in the entire industry agreed on how the system works, not to mention how it could be fixed. In this type of environment, it is important that the benefits of reforms are seen by all system participants. The government has

therefore introduced a key element to the grain transportation industry — you have heard me say it before and I will say it again — and that is an independent monitoring mechanism. This continuous monitoring program will be designed and implemented by an independent, private-sector third party to measure and assess the impact of these reforms on the farmers, the impact of these reforms on the Wheat Board, the impact of these reforms on the efficiency of the system, including railways, grain companies and the ports, and the overall performance of the grain handling and transportation system.

The grain industry is too important to Canada's economy and to its way of life for us not to monitor these changes. To facilitate an effective monitoring system, Bill C-34 ensures that all the right information can be acquired and shared with the third-party monitor while maintaining measures to protect the confidentiality of commercial information.

Honourable senators, I am just as anxious as you are to get to that cup of tea, but I ask for your help today. The Canadian producers, our grain companies and our railways need a world-class grain handling and transportation system in this country. Bill C-34 begins that process. I urge all honourable senators to support this very important legislation.

Hon. Lowell Murray: Honourable senators, would the honourable senator permit a question or two?

Senator Wiebe: Certainly.

Senator Murray: Did the committee hear from Mr. Estey with regard to this bill? Is it his view that this bill is consistent with his report?

Senator Wiebe: Honourable senators, I am pleased to advise that Mr. Estey was invited to appear before the committee, and a time had been arranged, but, unfortunately, he declined the opportunity to appear before us. We did, however, invite Mr. Kroeger to attend the committee, which he did, and it was a valuable exchange of concerns and ideas.

Senator Murray: I am sure it was. Can the honourable senator say whether Mr. Kroeger is of the view that the bill is consistent with the recommendations he made?

Senator Wiebe: I am sure honourable senators will appreciate that Mr. Kroeger had made some specific recommendations. Mr. Kroeger also said that there were some issues on which he was unable to make a recommendation because they were of a political nature and would have to be decided upon by government. These are issues where there was no consensus reached.

Senator Murray: I appreciate that. I have not had an opportunity to review the transcript of the committee hearings, and I will do so at a later date, but was it Mr. Kroeger's view that the areas where he did make recommendations are reflected in the legislation that we have before us?

Senator Wiebe: I stand corrected by the other members of the committee, but the best way I can answer that is to say that, in general, Mr. Kroeger felt that this was a proper direction in which to go.

Senator Murray: Who were the other industry stakeholders that were heard by the committee? I presume they would include the railways, the Wheat Board, the farmers' organizations. Could the honourable senator indicate what other witnesses were heard by the committee?

Senator Wiebe: Honourable senators, we invited the railways to attend but they agreed instead to send us a brief. We received a combined brief from the major elevator companies in Canada. We also invited the two ministers, Minister Collenette and Minister Goodale, to appear before the committee.

Senator Murray: Apart from the two ministers, can the honourable senator say whether the other briefs were generally supportive of the legislation?

Senator Wiebe: No, they certainly were not. It goes back to my comments on the bill, that when it came to some of these very key issues, there were not even two stakeholders who were able to agree on them. It was for this very reason that the government of the day had to make a decision as to what was best for the grain transportation industry. It is for that same reason that the government of the day decided to implement the monitoring system, to ensure that the proper figures and the proper statistics were used, so that if any of the stakeholders were negatively affected by the implementation of this legislation the government of the day could deal correctly with it.

Hon. Leonard J. Gustafson: Honourable senators, I want to make a few comments on this bill, but I shall be brief, as I spoke earlier on this at some length.

Perhaps I could begin by trying to answer, if I may, some of Senator Murray's questions. The grain business and farming in Saskatchewan are quite political.

Hon. Jeremiah S. Grafstein: Come over here on this side! You are on the wrong side!

Senator Gustafson: As Senator Wiebe has said, there are some positive things in this bill. That was the general feeling among the members of the committee.

• (1520)

All winter, we have heard about the crisis and the difficulties that farmers are facing and the fact that much of that was due to transportation problems. This bill provides \$178 million of savings to farmers in the movement of grain and \$175 million over five years to rebuild roads. There was a general consensus in committee that this is a good bill.

There is no question that the minister has come down on the side of the farmers with this bill. Although the railroads, and

possibly the grain companies, may be a bit disappointed, given the seriousness of the situation in agriculture this is a good bill. The Minister of Transport and Minister Goodale, in particular, hung in for the farmers in a positive way. I commend Minister Goodale, although I defeated him twice in my career. Minister Goodale is a tough one.

Senator Tkachuk: He keeps coming back.

Senator Gustafson: He did a good job on this bill and I congratulate him for that. I am pleased to have been part of the process. I believe that it will work to the benefit of farmers.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

PROCEEDS OF CRIME (MONEY LAUNDERING) BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kroft, seconded by the Honourable Senator Wiebe, for the third reading of Bill C-22, to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence.

Hon. James F. Kelleher: Honourable senators, I should like to speak briefly to Bill C-22. As my honourable colleagues have mentioned, we on this side of the chamber support the intent of this bill. Money laundering is a serious problem, both here and around the world. Canada must take all reasonable steps to address this issue.

However, while we support the intent of this legislation, we are not as supportive of some of its provisions. My colleagues have already spoken about some of the issues that concern those of us on this side of the chamber and that concerned all members of the committee that studied the bill.

As my colleagues have already mentioned, we have received a written commitment by the minister to introduce amending legislation at the first available opportunity in the fall of this year. Rest assured that we have every intention of holding him to this commitment.

We trust that he and his officials at the Department of Finance will also give very serious consideration to the unanimous recommendations made by the committee. It is to these recommendations that I should now like to turn my attention.

Honourable senators, we on the committee are very concerned by the powers given in this bill to allow representatives of the new money laundering centre to enter into and search the files in a lawyer's office without first obtaining a warrant. I believe that all of us here in this chamber, lawyers and non-lawyers alike, recognize and appreciate the sanctity of the relationship between a lawyer and his client.

When clients retain a lawyer, they have an expectation that they can share all manner of personal and private information with their lawyer, without fear that strangers will have access to this information. We are not aware of any similar legislation in other countries, legislation that allows this type of intrusion, nor are we aware of other legislation in this country that permits access to the files of lawyers without a warrant. We can think of no good reason, nor were we provided with one, why an exception should be made in this case.

The second issue that I should like to address is the inadequacy of the review provisions in the bill. Senator Tkachuk will touch upon that issue in his remarks. Senator Meighen discussed it at length in the committee.

As written, the bill provides for a one-time review after five years. The committee has recommended to the minister that it would be much more appropriate to have an initial review after three years and subsequent reviews every five years thereafter. For example, this bill will create a new money laundering centre that will have sweeping powers to collect vast amounts of personal and private information about mostly innocent Canadians. In order to ensure that the new centre is operating efficiently and that the private information of Canadians is being managed effectively, it was the unanimous view of the committee that the legislation be subjected to a more rigorous review schedule than that which is required of less intrusive pieces of legislation.

This, by the government's own admission, is an imperfect piece of legislation. Rather than amend the bill now and wait a few short months to have it sent back to the other place, the government has made it clear that it will pass the bill now without amendment. We do not support this approach. We believe we should get this bill right the first time, especially since there is agreement on both sides of this chamber that the bill needs to be amended. We should not be leaving to chance and the vagaries of the fall schedule that which should be fixed now.

Therefore, on behalf of most of the senators on this side of the chamber, I repeat my earlier assertion: We will be vigilant in ensuring that the government keep its word and introduce legislation to amend the proposed legislation as soon as possible after the House of Commons and Senate resume sitting in the fall.

Hon. David Tkachuk: Honourable senators, it was a pleasure having Senator Kelleher on the committee during our study of

Bill C-22. He was, of course, the minister in the government of Brian Mulroney responsible for introducing legislation to counter money laundering in this country.

As honourable senators may be aware, Bill C-22 received little attention in the other place. In fact, a mere two committee meetings were held, a number of minor amendments were raised and defeated, and the bill was speedily sent to our chamber. We gave it serious scrutiny. We held four quite lengthy meetings, hearing a number of witnesses, culminating with the testimony of Mr. Roy Cullen, the Parliamentary Secretary to the Minister of Finance.

Honourable senators, we on the Conservative side support the public intent of this legislation and have gone on record at second reading saying so. We do, however, have some concerns that could have been rectified with amendments to improve this legislation.

Immediately before our last committee meeting on June 14, we received a letter from Minister Peterson, Secretary of State for International Financial Institutions, that outlined the amendments he intended to bring to Bill C-22 this fall.

I reiterate that this bill passed the house in two committee meetings, with no amendments. The letter that we received is quite unprecedented. It actually outlines how specific clauses would be amended, and was in direct response to concerns expressed during our committee meetings. I might add that the amendments spoken of in the minister's letter were ones wanted by members on both sides. We were quite surprised that the minister sent this letter.

• (1530)

I understand my colleague across the way, Senator Kroft, had a response to why these amendments could not be passed now — he mentioned that in his speech — rather than waiting for the government to table an entirely new bill that would amend this bill.

We also had other concerns that we wished to bring forth to the minister. We figured that while he is making these amendments in the fall — which he has promised to do — that he might as well include a number of amendments that we wish to have included in the bill as well.

Our problem was initially, when we were asked about the letter, a general mistrust. We have received from ministers a number of letters attached to reports and, frankly, nothing happens. I remember a letter from Minister Massé on Bill C-78 last June where he promised to take whatever measures were necessary to ensure that discussions with employee and pensioner representatives were re-established. We remember that letter. Of course, the government shuffled ministers. Minister Robillard is there now and she says, "We shall not meet with anyone."

We do not have a lot of faith in these letters, but this was an interesting one because it outlined in specific terms the actual amendments that they wished to place in the bill. This is strange considering they have a new bill and they have amendments, but they do not want to make them right now.

We had tried to have amendments made during the committee. We asked and were told in explicit terms that there would be no amendments considered. Mr. Cullen told us that there would be no changes to the letter. We agreed to disagree, but we did, at least, unanimously agree to place three of our concerns into the report and recommend that they be placed together with the other amendments that the minister was promising in the fall. We expect to follow the minister's intent.

I will not read the letter of June 14, 2000, but I will place on the record that the minister wished to bring forth amendments. One would add a new subparagraph to subclause 64(9) in regard to some of the concerns we had and Senator Kelleher had, but it did not adequately address them. As well, there were a number of amendments to clause 61 and subclause 54(d). Senators should refer to the letter attached to the report so that we ensure that we keep the minister in place in the fall session.

We had a number of opportunities to do something important for the Senate. We had the minister of the Crown saying that we needed to make amendments to his bill. Concerns were expressed by both sides of the chamber with which the minister agreed. Concerns were expressed by us with which government members agreed.

What is the rush, honourable senators? Senator Kroft mentioned in his speech that this bill is necessary. How many times have we heard that comment about a bill?

I remember a bill in which I was involved, the CPP bill. It had to be passed by Christmas because the administration and the board of directors had to be set up. The people of Canada were waiting. As it happened, the board of directors was not appointed for two years.

I know what will happen with this particular bill. Nothing will be done in the summer. There will not be a bureaucrat working in Ottawa this summer. We all know that.

Senator Fairbairn: Nonsense!

Senator Robichaud (*Saint-Louis-de-Kent*): Senators will not be here either.

Senator Tkachuk: Senators will not be here; that is correct.

Senator Cools: That is not so. Some of us will be here.

Senator Finestone: Have a little respect for the people who work around here.

Senator Tkachuk: I do have respect for the people who work here. I am telling honourable senators that nothing will happen with this bill until September or October of this year. We all know that. There is no reason we could not have had these amendments made now, sent back to the House, reported back to Parliament in the fall, and dealt with in an appropriate manner.

We did work well together, despite the criticisms that I am making here today. We do have some frustration due to our numbers. I am expressing that frustration and I will continue to express that frustration until we believe that we have full agreement. The executive branch of government is telling us that we do not have the right to do this. This is something that we all wanted to do as a chamber and we all wanted to do as a Parliament.

Here we are complaining about the fact that in the financial services legislation, and Bill C-20, the Senate is excluded. I wonder why. When we have an opportunity to make a difference, we do not.

Senator Oliver: Just like the clarity bill!

Senator Tkachuk: Why should we not be excluded? The clarity bill is here. We all want to make amendments to it. We will see how many senators on the other side get up to make them and then complain that they are excluded. We are either a chamber of Parliament or not a chamber of Parliament. If we continue to behave in a way unlike a full chamber of Parliament, then we have no one to blame but ourselves for what the other place is doing to us.

Honourable senators, Bill C-22 is a good example of a situation where we could have made a difference. We could have moved amendments. We could have sent it back to the House, but we did not make any amendments. We only got promises from the minister. We know what shall happen in the fall.

Senator Robichaud (*Saint-Louis-de-Kent*): You have a commitment from the minister that there will be amendments.

Senator Tkachuk: I have a letter here and others in my office indicating that nothing has happened. Honourable senators know that we will have to hold their feet to the fire. We had the opportunity and we did not act upon it.

Honourable senators, even though we have unanimous consent to some amendments, we shall probably report this bill on division.

Hon. Donald H. Oliver: Honourable senators, I wish to add a few remarks to those already made by Senators Kelleher and Tkachuk on Bill C-22.

I am concerned about the process that we have been forced to follow in relation to the exercise of our duties as a body of sober second thought. We studied a bill and it was found to be wanting. It urgently needed amendments, but we have been urged not to use our powers to do what is right.

I am reminded that when amendments to the Canada Elections Act were before us, on two occasions I rose in this chamber to express concern about the constitutionality of the third-party provisions of that bill. I stated it was my opinion that the provisions as listed would not withstand the constitutional challenge.

Less than two weeks after the Canada Elections Act received Royal Assent and was proclaimed, I read in the newspapers that a constitutional challenge had been launched in the courts. It is, regretfully, my opinion that the challenge will likely succeed.

Honourable senators, we rushed through a bill and we did not get it right. If the Chief Electoral Officer has to suspend provisions relating to third parties for the next election, as he has in the past, this will mean havoc for candidates and parties.

Honourable senators, I have exactly the same concerns with Bill C-22. As you have heard from Senators Tkachuk, Kroft and others, the Standing Senate Committee on Banking, Trade and Commerce conducted a detailed examination of this bill, heard several witnesses and, as a result of what they said and what we heard, we were moved to make several amendments. The government did not want any amendments but said in a letter that it will bring in amendments in the fall if we agree to pass the bill now.

Honourable senators, why do we not get it right now?

Throughout the hearings on Bill C-22, I raised several concerns with many of the witnesses, the chief of which was whether the money laundering bill as drafted was constitutional. I had substantial support for my concerns from the Canadian Bar submission, in which they said:

Bill C-22 imposes significantly intrusive regulations upon businesses, financial institutions and professionals, including the legal profession, to the extent that we believe it may be *ultra vires* of Parliament.

• (1540)

The Canadian Bar Association recognized that the federal government may rely on the criminal law power for constitutional jurisdiction for Bill C-22. However, they believe, and I concur, that the bill could be interpreted as intruding upon the legislative jurisdiction of the provinces as property and civil rights and administration of justice within the provisions of section 92 of the Constitution Act, 1867.

As Senator Kelleher has aptly pointed out, there may also be major faults that could give rise to a successful Charter challenge. For instance, the provisions in the bill would mandate record keeping by lawyers and other professionals, and then authorize what can easily be construed as unreasonable search and seizure, offending clients under section 8 of the Charter of Rights and Freedoms.

The final concern that I canvassed with the Canadian Bar Association and other witnesses, including senior bureaucrats, was that the bill eroded the basic rights of Canadian citizens not to provide private information to the state and the right to independent and confidential legal representation under the Canadian Bill of Rights and under sections 7 and 11(d) of the Charter of Rights and Freedoms.

As a practising lawyer, the entire issue about confidentiality of clients' information is, of course, a major concern. The requirement of Bill C-22 would fundamentally alter the foundation of the solicitor-client relationship, which is premised upon the protection of both privilege and confidentiality. Confidentiality is an ethical concern that lawyers must address. As the Canadian Bar Association said, the importance of privilege and confidentiality has long been recognized in law and is central to the rules of professional conduct governing lawyers. Clients must be able to seek the assistance of a lawyer knowing that the information they communicate will remain with the lawyer and go no further. Uncertainty in the integrity of the privilege or confidentiality will create uncertainty in and undermine the solicitor-client relationship.

Honourable senators, these principles are so fundamental that they should be corrected now before the bill receives Royal Assent and certainly before the bill is proclaimed. I am concerned that there should be no proclamation of the offending clauses of this bill until such time as the government can bring forward the amendments it has promised us in writing.

I raised this matter with Mr. Cullen, the Parliamentary Secretary to the minister, when I said:

...if this bill were passed, is the minister prepared to hold up proclamation until such time as these amendments can be made?

Mr. Cullen responded as follows:

Honourable senators, I can say that we certainly could discuss delaying proclamation of certain clauses over the next little while.

Honourable senators, I call upon the Leader of the Government in the Senate, the Honourable Bernard Boudreau, to ensure that Mr. Cullen's undertaking is met and that these offending sections be delayed until the amendments recommended in the Banking Committee report to this chamber have passed both Houses and receive Royal Assent.

A final comment I should like to make about Bill C-22 that causes me grave personal concern is the fact of the low threshold of \$10,000 and the discretion given to bureaucrats in determining what is a suspicious circumstance. I raised with the departmental lawyer, Mr. Cohen, who appeared before the committee, the issue of whether this could be yet another way of perpetuating ethnic stereotyping. If, for instance, a person were to walk into a financial institution covered by Bill C-22 with, say, \$9,000 in cash, having just come back from Nigeria, Jamaica or a place in India, being a person of a visible minority, certainly that to many bureaucrats would be a "suspicious circumstance." Mr. Cohen said in response to my question, *inter alia*:

I do not know how to answer the question about whether bank tellers or others will participate in a way that is fostering a system based on systemic racism. There are two levels of intake for the information before it gets anywhere where any significant damage can be caused...It goes...to the Financial Transactions and Reports Analysis Centre. Thus, there is a second, professional vetting of the information before it can make its way over to law enforcement.

I raise this issue, honourable senators, as something that we should all be watching for to ensure that there is no further denigration in the principle of diversity that is so important to us in Canada as a nation. This legislation as presently drafted opens the door to all kinds of potential abuse and damage to individuals. I make these remarks as a caution to all senators to be on the look out.

With these brief remarks, honourable senators, it is my hope that, at an appropriate time, we will have another look at our role as a body of sober second thought. If legislation is wanting and in need of amendments, why do we not have the courage to amend it and do the right thing? Is this not what is meant by the oath we took when we arrived here?

The Hon. the Speaker *pro tempore*: Honourable senators, is it your pleasure to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Motion agreed to and bill read third time and passed, on division.

CITIZENSHIP OF CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

Hon. Anne C. Cools: Honourable senators, I rise to speak to Bill C-16, which, as we know, is roughly termed the citizenship bill, or the citizenship of Canada bill. I should like to raise a couple of concerns about this bill in respect of what I perceive to be problems with the bill. I should also like to ask that when the bill is referred to committee, that the committee study the issues that I raise with some diligence and some attention.

Honourable senators, I do not wish to repeat the concerns raised by Senators Kinsella, Andreychuk and others. I hope that those matters will be given serious consideration.

I should like to share with honourable senators the reasons that this particular bill has captivated my attention. It relates to the oath of citizenship, which is recorded in a schedule to the bill, and the oath of citizenship as commanded by clause 34 of the bill.

Before I go into that, honourable senators, I wish to say that Canada has a long and noble tradition and history of immigration and adoption of Canada as a nation from people from other shores. For example, if I were to quote even the name of the first prime minister of Canada, Sir John A. Macdonald, it would very quickly spring to mind that Sir John A. Macdonald was not born in Canada. He was actually born outside the country. In addition, Sir John A. Macdonald's second wife, a woman named Agnes Bernard, was a West Indian, for those of you who do not know. She was a British West Indian, as am I. She was from Jamaica. I do not think there are many people in this chamber who know that. As a consequence, I have a historical connection to some of those persons who came here from other shores to join the institutions of governments and to play what I would consider to be a meaningful role in Canadian life.

The question of citizenship for those of us who were born elsewhere and who have come to join Canada is a matter of some importance and some critical consideration. I would admit, though, that the concept of citizenship as described in this bill, and as was described at the time of Sir John A. Macdonald's citizenship, was a totally different sense of citizenship. The definitions of citizenship as they are put forth in this bill definitely command some attention.

• (1550)

Honourable senators, I should like to share with you one of the reasons that I have chosen to raise this concern. I should like to place on the record the exact words of the new proposed oath of citizenship. The new proposed oath of citizenship, as per the schedule of Bill C-16, is as follows:

From this day forward, I pledge my loyalty and allegiance to Canada and Her Majesty Elizabeth the Second, Queen of Canada. I promise to respect our country's rights and freedoms, to uphold our democratic values, to faithfully observe our laws and fulfil my duties and obligations as a Canadian citizen.

Now, honourable senators, the first thing I want to note is that the phrase "so help me God" is not in the oath. The oath has now become a pledge or an affirmation. That is an interesting point.

My real question is: What happens to the concept of "allegiance" within this new proposed pledge? I invite honourable senators to review this oath with some seriousness. Inserted is the phrase "allegiance to Canada." Interestingly, "allegiance" is usually a loyalty or a human characteristic. It usually is pledged to a person or a human being, usually the Sovereign, Her Majesty, the Queen of Canada. The oath of allegiance is about faithfulness, loyalty and commitment. Allegiance is pledged to something and someone beyond the reach of human manipulation. That is what allegiance to the Queen means, because the Queen is perpetual. Allegiance is supposed to be pledged to something that is permanent, stable, and lasting. In other words, you pledge allegiance to something that is perpetual and, most important, beyond the reach of human beings to manipulate and to alter on a daily basis. When this bill gets to committee, I should like to ask senators to carefully consider what are the functions of an oath and what are the objects that any oath is intended to attain.

Honourable senators, this oath says "...I pledge my loyalty...to Canada." Well, let us talk about Canada for a moment. In the last several days, we have discovered some extraordinary things about Canada. One of the issues I shall ask this committee to consider in its study of Bill C-16 is what is Canada as reflected by this oath. In the last several days, even on the floor of this chamber, we have been told by many senators that Canada is divisible. I want the committee to tell us to which Canada this oath of citizenship will be sworn. Is it the new Canada or the old Canada? Is it the divided Canada or is it the undivided Canada? I think this is a very important question, because we have before us two bills that are proceeding separately, but are on a collision course with each other. To my mind, that violates an important principle, namely, the unity of policy and the fact that cabinet is supposed to speak with one voice.

Let us now look to Canada and to any new Canadian who is about to swear allegiance to Canada. Let us hear what Senator Richard Kroft had to say about Canada a few days ago, on June 20, 2000, as reported in the *Debates of the Senate* at page 1675:

...The Supreme Court has said that Canada, in very carefully defined circumstances and following carefully defined processes, is divisible. That is the law of Canada.

In two paragraphs before that, Senator Kroft also said:

...To assert that Canada is indivisible requires saying that the Supreme Court was wrong in its decision. While anyone, of course, is entitled to express such a view, it is not easy to see where one goes with it, especially since the court has spoken to both domestic and international rights.

This is astounding. We have a bill proceeding before us, Bill C-16, which says that new Canadians shall pledge allegiance to Canada, but Senator Kroft tells us that the court has spoken to domestic and international rights and that the law of Canada says that Canada may be divided. Thus, what do we have here: divided loyalty, divided oath or a divided citizen? That is one point.

On June 21, 2000, again in this chamber, at page 1704 of the Debates, Senator Fraser said, "Even if we believed that morally..." Allegiance is now a question of belief. Some people believe one thing and some people believe another, which is contrary to what the oath of allegiance is supposed to be about. An oath of allegiance is supposed to be something definite and certain. However, Senator Fraser is reported to have said:

Even if we believed that morally Canada should be indivisible, we would be left with the plain fact that the Supreme Court of Canada has ruled that we are divisible, if rigorous conditions of legality and democracy are met. Every single witness to the committee, even those who disliked the court's opinion in the Quebec secession reference, agreed that that opinion is binding. It is now part of the law of Canada. We cannot evade it or wish it away.

That is very interesting, indeed. Senator Fraser said that it is the law. We are asking citizens to swear to something, but we cannot tell them what the law is to which they are swearing. That is very interesting, indeed. To add greater mystery to an already bewildering profundity, former Justice Willard Estey says that both Senator Kroft and Senator Fraser are wrong. Mr. Estey, in the proceedings before the Special Senate Committee on Bill C-20, on June 15, 2000, says the opposite of what Senator Kroft and Senator Fraser had to say. He said:

I turn now to the question of the 1998 court reference in the Supreme Court of Canada from the Governor in Council. The court found that Canada, as a nation, is indivisible.

He continues a paragraph later to say:

There is no question when the 59-page reference is read, it is clear that the court has determined that Canada is an indivisible, constitutionally governed country.

• (1600)

Honourable senators, maybe we should attempt either to settle or understand this mystery, perhaps by attempting to determine what is an oath. Maybe that would settle the confusion. Thus, let us try to understand what is an oath. A baby could tell you that an oath is a solemn declaration, a solemn commitment, a solemn promise, an affirmation and that the person making the affirmation or declaration makes it solidly upon his or her conscience and upon the invocation of that individual's dignity. "So help me God," is the phrase or, again, on my conscience.

Let us look, for example, to Mr. Jowitt, one of the great masters of the English law. At page 1268 of *Jowitt's Dictionary of English Law*, 2nd Edition, 1977, it says:

Oath. an appeal to God to witness the truth of a statement.

Honourable senators, we could move along from Jowitt to any of the great masterful definitions. For example, *Black's Law Dictionary*, 7th Edition, tells us, as follows:

Oath. 1. A solemn declaration, accompanied by a swearing to God or a revered person or thing, that one's statement is true or that one will be bound to a promise.

Then in *Black's* it continues, a couple of paragraphs down:

The word 'oath' (apart from its use to indicate a profane expression) has two very different meanings: (1) a solemn appeal to God in attestation of the truth of a statement or the binding character of such a promise;

Later on, it continues again with the definitions.

The Hon. the Speaker *pro tempore*: Senator Cools, I must inform you that your speaking time has expired.

Senator Cools: I would seek leave for an extension of time.

Senator Hays: May I ask how long Senator Cools will be?

Senator Cools: I think a few minutes could do it, honourable senators.

Hon. Dan Hays (Deputy Leader of the Government): Shall we give leave for five minutes?

Senator Cools: Let us say 15, and I may only take 5 or 10.

Senator Hays: Leave for 10 minutes.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted to extend Senator Cools' speaking time by 10 minutes?

Hon. Senators: Agreed.

Senator Kinsella: Subject to reconsideration.

Senator Cools: What I should like to know at some point in time, Your Honour, is what authority is rested upon here where I can ask for a certain amount of time and someone else can ask

that it be for a different amount of time? We cannot solve that question now, but it is a question that needs to be addressed.

Black's Law Dictionary also tells us that the oath of allegiance is an oath by which one promises to maintain fidelity to a particular sovereign or government, or whatever.

Having said all that, honourable senators, I should like to move to the issue of oaths and the assertions that they contain, because I belong to that group of people who took an oath of allegiance when they came to the Senate. To me, taking an oath is a very important issue. After all, an oath is an appeal, as I said before, to a supreme being, and it is extremely important.

Honourable senators, bearing in mind that the Canadian Charter of Rights and Freedoms says in its preamble that Canada is founded upon principles that recognize the supremacy of God and the rule of law, when we set out to create an oath it should honour the law. An oath should honour the deity, and it should honour the important question of the loyalty that the citizen is being asked to commit to and adhere to.

I would submit to honourable senators that in this day and age, when we are being told by the government that Canada is divisible and that Canada potentially may be partitioned, I fail to comprehend how the same government simultaneously can propose an oath that reads as this particular oath reads. I would also add that this particular oath is a dramatic departure from the old oath of 1977 and, in addition, is an even more dramatic change from the oath of allegiance, as it was labelled, in 1946, which is still extremely close to the one that we take here.

It is my pleasure and honour to ask the committee if it could deliberate upon that essential question. Perhaps with that question answered, we can all know whether or not we are asking new Canadians to come to this country and take an oath to a Canada that may cease to exist at some particular point in time. In other words, we are asking Canadians to place their hand on a holy book and to invoke their deities, to swear loyalty to something that this chamber has said does not exist, and that this chamber has said, and many members of this chamber have said, may not exist at law. I would submit to honourable senators that such a proposition is alien and hostile to the rule of law, to British common law, and to the sense of allegiance that every single one of us as senators owes to Her Majesty the Queen, and that the citizens of Canada owe to Her Majesty the Queen.

When I say that, honourable senators, I want to be crystal clear that this is no arcane or mystical concept. This is a question of whether or not we ask Canadians to be bound together and joined together by some connection, by some belief in something that is greater than all of us because, after all, honourable senators, it is a belief central to the exercise of politics. We all know how politics can descend into self-interests, self-gratification and self-promotion. All honourable senators know that if we do not have ideals that are higher than human beings and human ability to adhere to, then human interests and selfish interests become the order of the day.

I shall leave those few remarks with you. If honourable senators underestimate the importance of an oath, then I would ask them to look at all those noble soldiers who went to war to fight because they believed in God, in King and in country. I would ask the honourable committee to take serious the matter of the impact of Bill C-20 on Bill C-16, and to answer the question as to which Canada new Canadians will be asked to swear loyalty to, and to also answer the important question as to how one can swear loyalty to something if we no longer know what it is.

Hon. Joan Fraser: Honourable senators, the Honourable Senator Cools recalled Mr. Estey's appearance before the committee studying Bill C-20 in connection with the indivisibility of the country. I wonder if the honourable senator can tell us whether she recalls the portion of his testimony where he noted that nothing in the world is indivisible, including Canada? I should also like to know whether the honourable senator recalls the general thrust of Mr. Estey's argument, which was the thrust of the argument of many of our witnesses, that the country is indivisible unless we have a constitutional amendment to divide it, in which case it becomes divisible?

Senator Cools: I thank the honourable senator for her question. I recall former justice Estey's testimony with some vigour, and the memory is quite vibrant in my mind. I am pleased to say that I would have been happier if yesterday, soon after Senator Fraser had spoken, she had been prepared to take some questions about this matter. That was one of the very questions I wanted to put to the honourable senator. It seems to me that this particular exchange would have better taken place yesterday because it would have given honourable senators an opportunity to be able to have a dialogue with you, the person who chaired the committee.

I sincerely believe that as chairman of the committee, Senator Fraser held and heard and possessed and seized the evidence that was put before us. Mr. Estey was crystal clear because he has a sharp, chiselled, scalpel-like mind, and he made it very clear that Canada, under the current constitutional framework, is indivisible in the present tense. That is why Bill C-20 is so flawed, because Bill C-20 is in the present tense, and Canada in the present tense is indivisible.

• (1610)

In the future, that is a different kettle of fish. No constitutional amendment of the future can make Canada divisible now, just like no constitutional amendment of the future can make Bill C-20 legal now.

That is where Senator Fraser's thinking is very flawed and very imperfect. Yes, I shall tell her that, because she did not give me a chance yesterday, so we can talk today.

I shall say to all, again, as you have given me the opportunity, that there is no single provision of the BNA Act or any of the

related acts that are the Constitution of Canada that permit or enable Bill C-20 to be before us. Within the current — today, present tense — provisions of the Constitution Act, there is no section and no provision that gives lawful authority for this Parliament to be considering the partition of this country.

The former Mr. Justice Estey made quite clear that if certain individuals wanted Canada to be divisible they would have had to complete the process of a constitutional amendment first, which would have allowed it, before they could then bring a bill. For Senator Fraser's information —

The Hon. the Speaker *pro tempore*: Senator Cools, your time has expired.

Senator Cools: May I finish the sentence?

Senator Hays: Agreed.

Senator Cools: For Senator Fraser's information, and for many others who insist that Canada is divisible, I remind honourable senators that Louis Riel was hanged for less. Furthermore, Sir John A. Macdonald and those individuals who crafted the BNA Act crafted an act that dealt with partition. The word would not have been "divisible" or "indivisible" in those days, but they crafted a Constitution that treated any deviation from the union with very harsh measures.

Hon. Marcel Prud'homme: Honourable senators do not admit whether or not they are prepared, but I said yesterday that I wanted to speak to this bill. The answer is that I shall speak. I am not ready to speak, but I do not want to delay unduly. If I could adjourn this in my name until Tuesday, I shall be ready Tuesday. I shall say further that I shall not speak for longer than 15 minutes. I shall put forward all my views in 15 minutes. Therefore, I ask consent to adjourn this item in my name.

Senator Kinsella: Agreed.

Senator Hays: Honourable senators, I indicated yesterday that I would not agree to an adjournment. We should, in my opinion, deal with the question and have this matter go to committee for study following second reading debate. In order to do that, I would ask Senator Prud'homme, if possibly, to give his remarks today. We are nearing the end of a session. This is a bill that deserves some committee study before a decision is made as to whether or not it will be dealt with prior to our summer recess. To do that, it seems to me imperative that we move the matter along.

Senator Prud'homme: I shall read in French what you said yesterday. I appreciate what you just said. You said:

[Translation]

Honourable senators, I think this bill is ready to go to committee. Senator Finestone is ready to refer the bill. Does Senator Cools have a short speech?

Senator Cools replied as follows:

The comments I have to make simply cannot be completed in five minutes.

I then said:

...I intend to speak to this bill as well. I have worked for 35 years on citizenship issues.

The honourable senator did not say that there had been an agreement to refer the bill to committee.

[English]

We do not sit tomorrow; we do not sit Saturday; we do not sit Sunday; we do not sit Monday. I do not see what difference it will make. There are not many others who will participate. As I have said in the past, if I ask to speak to an issue and then fail to appear, well, too bad for me. I did not say that yesterday. Therefore, I shall ask again for consent. I shall not speak for more than 15 minutes.

Honourable senators, the more I indicate that I intend to speak, the more notes I receive. For the first time in my life, I find myself head-to-head with the B'nai Brith of Canada, which agrees with all my views, or I agree with all their views, and therefore there is something that I must look into over the weekend. I see Senator Finestone smiling because she agrees with me.

Once again, honourable senators, I ask to adjourn this matter in my name until Tuesday. I shall be at your disposal at that time, unless I am ill, and I shall not speak for more than 15 minutes. Everything that you want to do today, things that you cannot do on the weekend anyway, will be able to be done beginning on Tuesday.

Senator Hays: I regret this very much, because I would like to accommodate Senator Prud'homme, but this bill has stood on the Order Paper for approximately two weeks longer than I would have thought. I feel obliged to move the bill along. We could sit tomorrow. I shall be asking for leave not to sit tomorrow. The honourable senator is in a position to bring us back tomorrow. I hope he would not do that, particularly having regard to his earlier comments that he would support that.

I must unfortunately ask that the question be put or that we hear from you now.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, let us see whether we can find a compromise through the usual channels here. My friend the Deputy Leader of the Government has the responsibility of seeing that government legislation moves along as expeditiously as possible, and I can fully understand his responsibilities.

I think part of the problem around this bill, if we can call it a problem, has been engendered by the fact that we have taken a serious look at it. What did we discover? We discovered that it is

a naturalization bill, and some serious issues have been raised by honourable senators during the debate. The bill does not speak to the larger issue of citizenship. In debate in this house, suggestions were made along the line that perhaps we could fix that.

Then, a document was circulated earlier this week indicating that the Standing Senate Committee on Legal and Constitutional Affairs, doing as committees ought to do, was making contingency plans, so that their work could be done expeditiously, calling witnesses and hearing them. In fact, one document I looked at had witnesses coming and the committee sitting until midnight last night. Therefore, it became evident to some that they were trying to ram this thing through the committee.

Senators who have serious concerns with the bill looked at what happened in the other place. They had months and months of hearings, when the bill was under its incarnation as Bill C-63. Then they had another long period of time to look at it under this form. Our committee would not even have one or two days at it. That caused many senators to be concerned. Thus, the debate has gone the way it has at second reading.

We all recognize how difficult it is to give an instruction to a committee, but it could be the understanding in this house that the committee is expected to very carefully study this bill, to take into consideration the issues that have been raised here at second reading, and that there is no expectation for us to have this thing rammed through. Indeed, it will not get through, anyway, by next week, if we are expecting to rise by the end of next week. The next time that the Standing Senate Committee on Legal and Constitutional Affairs meets, I believe, and the chair is here, is Tuesday or Wednesday.

Senator Milne: Wednesday.

Senator Kinsella: I think Senator Prud'homme is saying that he will speak on Tuesday. I shall say for this side that we have no more speakers and that it could go to committee on Tuesday. In order for Senator Hays to meet the objectives that he must meet, if this is the understanding, then perhaps this is the compromise that can be accepted through the usual channels.

• (1620)

Senator Hays: Honourable senators, this seems to be a good way to deal with a difficult matter. Perhaps I could ask the chairman of the committee to which I believe we will refer this bill what her work plan would be if she were to receive it today.

Hon. Lorna Milne: If we were to receive the bill today, we would not, of course, have any witnesses lined up for this evening. We would attempt to call witnesses for Tuesday morning of next week, Tuesday night, Wednesday night and Thursday. I must tell the honourable senator, however, that had we received the bill last week we would have been able to get through it. We now have 24 groups who wish to appear before the committee to be heard on this matter, so receiving it either late this week or next week produces a big scheduling problem.

[Senator Prud'homme]

Senator Hays: Having heard that, I am somewhat persuaded by the submission of Senator Kinsella, particularly in light of his indication that he did not expect that there would be any further speakers for the opposition. I am not aware of any speakers on our side.

One issue bothers me a bit, and that is the work schedule. What I am thinking of is that the minister is entitled to be heard by the committee, and is entitled to be heard in a timely way, in terms of her desire and her government's desire to have this bill dealt with expeditiously. It may be that the committee's disposition will be not to do that. It may be that this chamber's disposition will be not to do that. I do not know. However, at the very least, we should have this before a committee so that the minister can appear, and I understand she can appear next week.

Senator Milne: I have some information about that. The minister is in Europe at present. She was prepared to cancel her trip to appear before the committee this week. We did not receive the bill in time. She will not be back until next Thursday.

Senator Prud'homme: Honourable senators, I shall help you out. I was aware of almost everything that is being said now. I am not known to be a very difficult man. It may be hard to believe, but this is the first time that I have received so many protests from people who want to be heard and who feel they were not given fair treatment in the House of Commons. Citizenship, like immigration, is a subject that is close to the hearts of many, including me. Some people feel this matter is being rushed. The minister cannot be there. Everyone knows she is away.

I do not want to be difficult, but I can tell you that, on Tuesday, if I am not in the house — I say it openly — proceed. However, many, many people are sending me notes on this, and I do not have the staff of all the research bureaus. I have only a summer staff. It is my fault, but some went to better pastures. I do not think it is fair that if I say Tuesday, you say no. If you say no, what can I do? You can do what you want. You are the boss of the house.

Senator Hays: I think I have enough information now to know that we shall not gain anything by not giving you this important opportunity. I shall call it first on Tuesday, and that is a signal to the committee, which I expect will receive it, as to what they will be able to do.

The Hon. the Speaker: Honourable senators, before I put the question for the adjournment, I should just like to point out that everything that has gone on for the last few minutes is completely, totally out of order.

Senator Lynch-Staunton: Why did you not say that before?

Senator Kinsella: But quite creative and problem-solving.

The Hon. the Speaker: Let us not consider this as a precedent for the future.

On motion of Senator Prud'homme, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should like to call Item No. 1 under "Reports of Committees," the report of the Standing Senate Committee on National Finance on the Main Estimates 2000-01.

THE ESTIMATES, 2000-01

SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (interim) of the Standing Senate Committee on National Finance (Main Estimates 2000-2001), presented in the Senate on June 20, 2000.

Hon. Anne C. Cools moved the adoption of the report.

She said: Honourable senators, I shall be quite brief. You have before you the eighth report of the Standing Senate Committee on National Finance, which, as honourable senators know, was introduced here a few days ago by our honourable chairman, Senator Murray. The report itself is quite exhaustive and needs very little expansion from me other than to note that the committee, with due diligence and, I would say, some vigilance and attention, was able to put in some relatively comprehensive studies on the Estimates themselves.

Honourable senators should know that this is an interim report, the adoption of which allows the supply bill to move along in the proceedings in this chamber.

I should just like to give a brief summary of the report. I hope honourable senators have it in front of them and that they will study it and read it. Honourable senators will see that we heard from the President of the Treasury Board, the Honourable Lucienne Robillard, and I would say that the exchange that we had with the minister was not only a good and candid exchange but also it was a very cordial discussion. Madam Robillard, as honourable senators know, is extremely pleasant, which made having a discussion with her quite easy.

We also heard from other witnesses, including officials from Treasury Board, Mr. Len Good, President of the Canadian International Development Agency, and, in addition, Mr. Morris Rosenberg, Deputy Minister of the Department of Justice, who appeared before us on June 6, 2000.

In any event, because I know that our load is heavy today, what I will do is invite honourable senators to review and to study the report on their own, and to adopt the report so that the business of supply can proceed, thus allowing the government to get its money to pay its various and sundry bills.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government):

Honourable senators I would now call Item No. 8, consideration of Bill C-42.

APPROPRIATION BILL NO. 2, 2000-01

SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-42, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001.

• (1630)

She said: Honourable senators, by passage of this appropriation bill, Bill C-42, both Houses of Parliament will have approved the government's Estimates and thereby will grant final supply for the current fiscal year April 1, 2000 to March 31, 2001. Should the government require additional supply later this year, it will submit Supplementary Estimates to both Houses. The Main Estimates 2000-2001 were presented here in the Senate by our Deputy Leader Senator Daniel Hays on March 2, 2000. That same day, the Senate referred them for study and consideration to the Standing Senate Committee on National Finance.

The Senate Committee has been studying these Main Estimates and has heard from various witnesses, particularly Treasury Board officials who testified on March 22, 2000, and also the President of the Treasury Board who appeared before our Committee on May 30, 2000. The Treasury Board Secretariat officials were Keith Coulter, Assistant Secretary, Planning, Performance and Reporting Sector; Andrew Lieff, Senior Director, Expenditure Operations; and Kevin Lindsey, Director, Expenditure Operations.

When Minister Lucienne Robillard, President of the Treasury Board, met with the committee, she had a frank discussion about the 2000-2001 Estimates. Minister Robillard noted Canada's relatively strong economic performance among the G7 countries and Canada's achievement of a \$1-trillion economy. The minister also outlined some of the significant changes in the Main Estimates 2000-2001 and highlighted several government initiatives.

Honourable senators, the committee also heard from Mr. Len Good, President of the Canadian International Development

Agency who testified before the committee on May 31, 2000, as did Mr. Morris Rosenberg, Deputy Minister of Justice on June 6, 2000.

In this chamber on Tuesday, June 20, committee chairman Senator Lowell Murray introduced the committee's eighth report, the second interim report on the Main Estimates 2000-2001. This report was adopted a few minutes ago. It is very thorough and I invite honourable senators to review it. This committee has taken its work very seriously and has brought to the Senate a very thorough and comprehensive report.

Honourable senators, I shall now describe in some detail some of the items in the Main Estimates. The Main Estimates for the current fiscal year, 2000-2001, total some \$156.2 billion in planned expenditures. This total comprises approximately \$106 billion stemming from existing legislation and another \$50.1 billion in expenditures for which parliamentary authority is now sought.

Honourable senators will recall that the interim supply bill, Bill C-30, in the amount of \$15.6 billion, was passed on March 29, 2000, and was given Royal Assent on March 30, 2000. Bill C-42, which is before the Senate now, seeks parliamentary authority for the remaining \$34.5 billion of that \$50.1 billion.

Honourable senators, I shall list briefly some of the major changes in the Main Estimates affecting departments and agencies. These changes are presented in the Estimates as increases or decreases relative to the Main Estimates for 1999-2000. The major increases in the budgetary Main Estimates include: a \$1-billion increase in the Department of Finance for the Canada Health and Social Transfer payments; an \$895-million increase in the Department of National Defence, which includes \$307 million for additional programming, \$120 million for pay increases, \$236 million for the continued participation of the Canadian forces involved in peacekeeping operations, \$41 million is for partial compensation for price increases related to the growth of the GDP, and \$126 million for quality of life initiatives for military personnel, and \$65 million for anticipated increases in payments to the provinces under the Disaster Financial Assistance Arrangements; a \$700-million increase in the Department of Human Resources Development for Old Age Security, Guaranteed Income Supplement and Spouses Allowances caused by an increase in the number of recipients and an increase in the average benefit rate; \$500 million to the Department of Agriculture and Agri-Food Canada for farm income assistance; \$359 million to the Department of Human Resources Development for grants to the trustees of Registered Education Savings Plans, reflecting the success of the Canada Education Savings Grant program; \$235 million to Canada Post Corporation for transitional financial support to implement the Canada Post Corporation's Pension Plan; \$234 million to the Department of Finance for Fiscal Equalization payments; \$200 million to the Department of Indian Affairs and Northern Development for programs, including \$101 million for "Gathering Strength,"

the government's response to the Royal Commission on Aboriginal Peoples, \$77 million for basic services such as housing, education and community development, and \$24 million for the Department's Youth Employment Strategy; \$180 million to the Department of Finance for transfer payments to the territorial governments, including funding for the government of Nunavut; \$166 million to the RCMP for additional constables in local communities, and for more staff and better resources to fight organized crime, high-tech crime, telemarketing fraud, immigration enforcement and drug crimes and also for improvements to the force's management practices and for the rehabilitation of police stations; \$145 million to the Department of Agriculture and Agri-Food Canada for Safety Net Companion Programs to assist the agriculture community; \$142 million to the Department of Human Resources for the Homelessness Initiative announced last December 1999 to help alleviate and prevent homelessness in Canada; \$119 million to the Department of Health for First Nations and Inuit Health Care to strengthen home and community care in First Nations and Inuit communities, as announced in the 1999 Budget, and also to meet increased demands for health programs and services by a growing aboriginal population; \$110 million to the Department of Human Resources Development for the Canada Jobs Fund, as set out in the 1999 Budget; and \$102 million to the Department of Fisheries and Oceans for the Fisheries Access Program and co-management activities under the Aboriginal Fisheries Program.

Honourable senators, the increases in the Main Estimates also include a \$98-million increase to the Department of Public Works and Government Services for urgent health and safety needs relating to various government buildings and bridges, including asbestos removal, fire safety and needed structural repairs. This also includes various sums for additional costs for leased accommodation and enhancements to government information services, provision of Parliamentary translation services and for the rationalization of federal office space; a \$96-million increase to the Canadian International Development Agency for aid to Kosovo; \$93 million to the Department of Health for health initiatives announced in the 1999 budget, including \$39 million to improve the quality and availability of health information and for additional development of health information systems, of which \$30 million is to go to the Department of Health for the Canada Prenatal Nutrition Program, including \$20 million for innovative approaches in rural and community health, including joint initiatives with the provinces, and also \$5 million for biotechnology initiatives; \$90 million to the Department of Justice to respond to increased levels of litigation and increased activity in federal prosecution; \$87 million to the Department of Indian Affairs and Northern Development for settling and implementing comprehensive and specific claims; \$86 million to the Cape Breton Development Corporation, in particular \$54 million for workforce adjustment costs related to the closure of the Phalen mine, and also \$32 million for operating losses arising from geological problems

at the Prince mine and the accelerated closure of the Phalen mine; \$85 million to the Department of Finance for payments to International Financial Institutions; \$79 million to the Department of Citizenship and Immigration for resettlement assistance for refugees from Kosovo, including income support, health care and refugee sustainment sites and settlement services; \$78 million to the three granting councils, which includes \$50 million to restore funding to 1994-95 levels as set out in the February 1998 budget, of which \$32 million is to the Natural Sciences and Engineering Council, \$12 million to the Social Sciences and Humanities Council, \$6 million to the Medical Research Council and in addition, \$28 million to assist the Medical Research Council with its transition to the Canadian Institutes of Health Research; \$76 million to the Department of Fisheries and Oceans to ensure the sustainability of its departmental programming, including search and rescue in Canadian waters, fisheries monitoring and enforcement and access to scientific advice to conserve and protect fisheries resources; \$75 million to the Department of Human Resources Development for the Youth Employment Strategy, a government-wide initiative to create employment opportunities for Canada's youth, as announced in the 1999 budget; \$75 million to the Canadian International Development Agency for the International Assistance Envelope; \$70 million to the Department of Canadian Heritage for official languages programming; \$67 million to Statistics Canada to prepare for the 2001 Census of Population; \$63 million to the Department of Industry for the Technology Partnerships Canada Program; \$58 million to the Department of Agriculture and Agri-Food for the Canadian Adaptation and Rural Development program; \$52 million to the Department of Citizenship and Immigration for immigration programming, including interdiction and intelligence to prevent illegal entry into Canada, enforcement of immigration laws and improved management of access to Canada and timely deportation; and, finally, \$247 million to various departments and agencies for the salary increases and related employee benefits, including additional funds for the salaries of judges and RCMP members.

• (1640)

Honourable senators, having listed the major increases, I shall now list the major decreases as reflected in the budgetary Main Estimates. They include a \$1.6-billion reduction in the Department of Human Resources Development estimates due to a forecast decrease in Employment Insurance Benefit payments; a \$500-million reduction in the Department of Finance's estimates due to a forecast decrease in public debt costs; \$260 million in increased recoveries from the Province of Quebec associated with tax abatements provided to Quebec for the Youth Allowances Program, which ended in 1974, and from alternative payments arrangements, concerning the cost of certain federal-provincial programs administered by Quebec. The value of the abatement is subtracted from payments otherwise payable under the Fiscal Arrangements Act.

Other major decreases include a \$287-million reduction in the one-time funding granted by Parliament to assist departments and agencies in Y2K compliance requirements. Interestingly enough, honourable senators, Y2K has receded from our memories, but for the past year it seemed to be such a pressing problem. This is something that strikes me, because it shows us how quickly so many matters recede into our memories.

There is a \$225-million reduction in the Department of Fisheries and Ocean's estimates due to the winding down of the Canadian Fisheries Adjustment and Restructuring Program; a \$112-million reduction in the estimates of the Department of Human Resources Development for the Canada Student Loans Program caused by a decrease in the estimated liabilities of the program, as no guaranteed loans were granted after August 1995; and, lastly, a \$110-million reduction in the estimates for the Department of Agriculture and Agri-Food caused by reduced cash requirements for the Agriculture Income Disaster Assistance program, which is in year two of its two-year program.

Honourable senators, that completes my summary of the reductions. Having listed both the increases and reductions to the Main Estimates, I now turn to the major changes in non-budgetary Estimates, being a \$190-million increase to the Department of Finance for payments to various international financial institutions.

In conclusion, I would like to take this opportunity to thank the Chairman of the National Finance Committee, Senator Lowell Murray, for what I thought was an efficient handling of the questions and references before our committee. I should also like to take the opportunity to thank the other senators on our committee who cooperated fully and ensured that the government would receive its supply in adequate and proper time by reviewing the Main Estimates 2000-01 and by providing the committee's interim report to the Senate in a timely and orderly fashion.

At the same time, honourable senators, I should like to thank the staff of the committee upon whom enormous burdens are placed, in particular at this time of the year, when we are trying to bring all the variables together so that we can adjourn for the summer. I hope that the staff of the committee is listening because, often, we do not express our appreciation to them.

Honourable senators, having said that, the Main Estimates 2000-2001 have described Her Majesty's government's need and plan for supply. Having given honourable senators quite a comprehensive review of the government's Estimates and expenditure plans, I urge all honourable senators to support Bill C-42, which is the actualization of the Estimates in statutory form.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Senator Cools: Honourable senators, I am assured that we have unanimous consent to proceed to third reading later this day.

Senator Hays: Now.

Senator Cools: Honourable senators, I am just checking that the consent is there, because the last time my honourable leader told me it was there and I rose to say that we have it, someone said "No."

The Hon. the Speaker: Honourable senators, is it agreed that we proceed now to third reading?

Hon. Senators: Agreed.

THIRD READING

Hon. Anne C. Cools moved the third reading of Bill C-42, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, under Government Business, I should like to call the report that we deferred for consideration later this day concerning Bill C-25. That is the report of the Standing Senate Committee on Banking, Trade and Commerce. I believe the report has been distributed to all honourable senators.

[Translation]

INCOME TAX ACT EXCISE TAX ACT BUDGET IMPLEMENTATION ACT, 1999

BILL TO AMEND—THIRD READING

Hon. Marie-P. Poulin moved the third reading of Bill C-25, to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999.

She said: Honourable senators, on behalf of all the members of the Standing Senate Committee on Banking, Trade and Commerce, I invite all of you to support this bill to implement the 1999 budget.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Motion agreed to, and bill read third time and passed, on division.

[English]

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should now like to call under Government Business the report from the Standing Senate Committee on Social Affairs, Science and Technology concerning Bill C-12.

• (1650)

CANADA LABOUR CODE

BILL TO AMEND—THIRD READING

Hon. Dan Hays (Deputy Leader of the Government) moved the third reading of Bill C-12, to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts.

He said: Honourable senators, I defer to Senator Kinsella.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as you recall, at second reading debate we raised in the chamber that the Senate had worked on an amendment to Part I of the Canada Labour Code and at that time had focussed on the full text of the code, which, at that time, was quite gender specific. The minister gave an undertaking that work would be done to make it gender neutral in language. We had taken the code off the Department of Justice's Internet site. That version continues to be — in fact, it is still up today — quite gender specific. However, we did pass a Miscellaneous Statutes Act about one year ago. It was in that hidden Miscellaneous Statutes Act that, where the labour code had gender specific language, it was changed.

The minister gave an undertaking that the office consolidation of the labour code that they do would be inclusive of what was changed in the Miscellaneous Statutes Act, so that now Canadian workers will have available, through the Ministry of Labour, a code in the language that we want it to be in. This was the work of the Senate, and we were delighted to discover that, indeed, they had followed the advice of the Senate.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will proceed to the third reading motion.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I would now call Item No. 1 under Government Business, resuming debate on Bill C-20.

BILL TO GIVE EFFECT TO THE REQUIREMENT FOR CLARITY AS SET OUT IN THE OPINION OF THE SUPREME COURT OF CANADA IN THE QUEBEC SECESSION REFERENCE

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Graham, P.C., for the third reading of Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference.

Hon. Lorna Milne: Honourable senators, I wish to confine my remarks on Bill C-20 to the two main questions that seem to be of most concern to the members of this place: Is Canada divisible, and is the bill constitutional?

Your committee heard from one very persuasive young man, Professor Robert Howse, from the University of Michigan, who has written extensively on Canadian constitutional law, even though his main area of expertise is in international trade. I hasten to add that, although he lives in the United States, he is, or perhaps originally was, a Canadian. He argued that Canada is indivisible, basing his argument on much the same legalistic reasoning that we have heard several times in this chamber, so I will not repeat it.

I look at it from a pragmatic and practical point of view. The simple fact of the matter is that every country in the world is divisible and has been divided and reformed many times since the dawn of history. Compare a map of the world just 50 or 60 years ago, or even 10 years ago, to a map of the world today. The end of the Cold War brought about the dissolution and re-amalgamation of several states across Europe. Countries that grandly declare themselves indivisible have quietly and pragmatically divided — for example, France and Great Britain. Even island nations are clearly divisible. Look at Ireland and Haiti. Canada is not unique. It is not indivisible and the Supreme Court of Canada has clearly stated so in paragraph 2 of its opinion, which states:

...a clear majority vote in Quebec on a clear question in favour of secession would confer democratic legitimacy on the secession initiative which all of the other participants in Confederation would have to recognize.

Remember that an opinion from the Supreme Court has, in practice, the same effect as a decision, as Justice Estey reminded us. It establishes the parameters of the law of the land. Canada, being a country that abides by the rule of the law, has traditionally abided by Supreme Court opinions by reinforcing them in law. That is exactly what Bill C-20 achieves.

Honourable senators, not only must we acknowledge that Canada is divisible, we must apply the logic of the Supreme Court and acknowledge that an independent Quebec would also be divisible. This fact was emphasized by a group of aboriginal peoples from Quebec, who clearly stated that they agreed that Quebec would be divisible.

Canada, unfortunately, is divisible, both from my own pragmatic point of view and legally because the Supreme Court has said so. Professor Howse also argued, as did Justice Willard Estey, that this law is not constitutionally valid. The arguments were based on the fact that Bill C-20 does not treat the Senate on the exact same basis as the other place and is, therefore, a disguised attempt to change our Constitution and the role of the Senate within Parliament, without having to follow any of the amending formulae.

These opinions were countered by three of the most noted experts on Canadian constitutional law, namely, Dean Peter Hogg, Professor Patrick Monahan and Professor Joe Magnet, who all said, in essence, that Bill C-20 is entirely and completely constitutional. They all contended, as did most of the witnesses, the fact that this is an ordinary bill upon which the Senate must and indeed is playing its traditional role of debate and deliberation and that the Senate is free to pass, amend or defeat.

I should like to quote Professor Monahan, who stated:

Certain senators would say — and I know they have said it, and I understand the concern — “But this devalues the role of the Senate because it does not treat the Senate as equal to the Commons.” I simply say to you, senators, that neither the Senate nor the Commons has ever played the role envisaged by Bill C-20 in the supervision and limitation of the prerogative powers of the Crown. Therefore, in my view, it does not infringe on the historic prerogatives, privileges or powers of this institution of which honourable senators are a part. Thus, you do not bring any dishonour to

the institution and to the traditions of the body of the Senate by agreeing to Bill C-20.

If, sometime in the unforeseeable future it becomes necessary to act upon this bill, any constitutional change that might have to be negotiated because of a clear result, by referendum in some province, upon a clear question of separation, would have to be done as required by law, following the correct amending formula and with the agreement of the Senate or, perhaps, after a suspensory six-month veto. It is quite clear to me that we are not being set aside and that we are not being excluded from the constitutional process because we cannot be. The place of the Senate within our bicameral system of government is enshrined in our Constitution and its authority cannot be delegated away. Justice Estey himself stated this principle in his 1980 reference, “Authority of Parliament in Relation to the Upper House,” wherein he stated:

This court, in *Attorney General of Nova Scotia v. Attorney General of Canada and Lord Nelson Hotel Company Limited*, determined that neither the Parliament of Canada, nor a Provincial Legislature could delegate to the other the legislative powers with which it has been vested, nor receive from the other the powers with which the other has been vested.

Not only is the place of the Senate constitutionally guaranteed and cannot be diminished by a simple bill such as this one, the protections offered to the First Nations people are also guaranteed. Canada must retain its fiduciary and legal responsibilities, as set out in treaties under clauses 35 and 35(1) of the Constitution. This is an undisputed fact, and it is completely unnecessary to reiterate the relevant portions of the Constitution within this act.

Honourable senators, we are all agonizing over this bill. It has not been easy.

• (1700)

Some senators have come to me and said, “But I swore an oath to defend the Senate, not to diminish the place.” Well, I swore that oath of allegiance, too. It was an oath stating that I would bear faithful and true allegiance to Her Majesty the Queen. It does not say “to defend the Senate.”

Furthermore, just this morning I read the proclamation on the wall of my office of my calling to the Senate. This proclamation calls upon honourable senators for the “purposes of obtaining your advice and assistance in all weighty and arduous affairs which may the State and the Defense of Canada concern.” I interpret that proclamation to mean that I have a duty to defend Canada. That includes doing my best to prevent our beloved country from splitting apart. This clearly constitutional bill does just that. It gives the government a tool, reinforced and strengthened by a decision of the members of Parliament, to counter those who want to divide the country. This bill is the right thing to do for the future of Canada.

Honourable senators, this probably is not the appropriate time to say it, for this is a very sensitive subject with some of our colleagues, but we should occasionally remind ourselves that this chamber is equal in many ways to the other place under our Constitution, but it is not the same. We are appointed to this place to deliberate upon legislation, to give it that famous sober second look; also to legislate and investigate, all the while keeping in mind our own regions and adding a sense of regional concerns to the debate. We do not, however, represent ridings in the electoral sense of the word. We are appointed, not elected. Therefore, we are not responsible to the electorate, nor are we representative of the electorate.

This bicameral system of ours works so well that sometimes we lose sight of the fact that while we talk about being the upper house and being in many ways constitutionally equal to the House of Commons, if all the legal and constitutional requirements were met, the Senate could be legislated out of existence and Canada would still be a democratic country. Senators are really not that important in the larger scheme of things, but Canada is.

Honourable senators, this legislation does not prevent us from defeating or amending legislation that is sent to us from the other place, nor does it prevent us from initiating legislation, nor does it prevent us from investigating the great issues of the day. Once this legislation has become law, we will continue to exercise our responsibilities as before. I therefore agree totally with Professor Derriennic when he appeared before the committee and said:

Much of the heated debate over this bill stems from an overestimation of the scope of the legislation and of the effects of the bill.

He went on to say:

There will be much more important decisions to be made later on, when the Senate will play its usual and constitutional role.

In denial of the Supreme Court's exhortation that the government must negotiate in good faith — that is, subclauses 4(a) and (b) — Professor Howse had suggested that the necessity to negotiate as legislated in this bill would not necessarily mean that the government would actually need to negotiate upon the question of separation. This, it seems to me, is just another legalistic way of intimating that the government of the day could negotiate with Quebec or any other province in bad faith. When I suggested just that to the witness, some senators around me muttered "no, no, no," but I contend that is precisely what was being suggested. We all know that if a province really and truly wants to separate from Canada — and I hope it never happens — our government must negotiate terms and conditions starting with the government's position, which is the status quo, and running the complete combination and permutation of possibilities up to and including the province's position, which would be a completely separate country.

Honourable senators, we do live under the rule of law, and I do not believe that Canadians would attempt to prevent such a separation by force of arms, which could be the next step after failure of negotiation. I hope fervently that this piece of legislation will never be used, for I cannot conceive that the people of Quebec would ever willingly cut themselves off from their own Canadian heritage, their own patrimony. It would be like voluntarily chopping off one's arms and legs to be free of the nuisance of caring for them. Quebecers would be hived off within inevitably shrinking boundaries to attempt to interact with a larger North American culture all alone.

I believe Canada is the buttress and the barrier that presently keeps Quebec from drowning in an overwhelming sea of anglophones and Hispanics. If that sad day ever does arrive, I for one want clear rules in place so that law and order will continue to prevail. I have become convinced that this legislation is not only constitutionally correct but that it is absolutely necessary. It could one day be a key element in defending Canada — defending Canada from the threat of dissolution. It is for that reason that I shall not support any amendments to this bill. I shall support the bill fully.

Hon. Willie Adams: I should like to ask Senator Milne a question.

The Hon. the Speaker: Senator Adams, I regret to say that Senator Milne had used her 15-minute period; therefore, there is no time available for further questions, unless leave is granted.

Hon. Dan Hays (Deputy Leader of the Government): I would ask leave to extend the time for a further 10 minutes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Adams: Honourable senators, I want to discuss an aboriginal amendment to Bill C-20. I have heard from some witnesses who said that our original guarantee would apply in the future. I am not speaking of only the Cree and Inuit in Quebec. I believe I heard Senator Carney ask Senator Fraser, the chairman of the committee, whether that would apply across Canada. Senator Fraser said that it would apply across Canada.

Is Senator Milne saying that aboriginals are guaranteed a right in the future and that we need not propose an amendment to Bill C-20?

• (1710)

We have many land claims at present across Canada, and these claims often include rights to fishing, as well as to land. It seems to me that there is a possibility that after Bill C-20 is passed, it could be said that since Bill C-20 was not amended that it does not include aboriginals. It only says the ones to be included are the Government of Canada and the provinces. It does not say anything about the aboriginals. I should like the honourable senator to clarify that point.

Senator Milne: I thank Senator Adams. The bill does not speak to the Constitution. This is an ordinary bill, and it speaks to the clarity of a question that may be put some day to the people of Quebec. It does not speak to the Constitution. It has no effect whatsoever on clauses 35 and 35(1) of the Constitution. It has no effect whatsoever on the treaties. Those still stand, and those will still guarantee that the aboriginal people of this country will have a place at the table.

Senator Adams: As a supplementary question, Senator Milne says this is not a constitutional bill. However, some people say that Bill C-20 could not have effect because Quebec never signed the Constitution.

Senator Milne: I contend that Bill C-20 is just a bill. It does not amend the Constitution of Canada. Thus, the Constitution as it presently is would stand.

Hon. Serge Joyal: Honourable senators, I should like to bring some facts to the attention of Senator Milne in relation to Professor Howse.

The honourable senator mentioned that Professor Howse is young. According to the biographical note that was circulated at the committee hearing, where the honourable senator was a full government member, Professor Howse was born in Toronto in 1958, so he is 42 years old.

If I look into the biography of Professor Monahan that was circulated, he is 46. I bet he is also a young professor.

I raise this, honourable senators, because when one qualifies a witness by referring to his age, there is an innuendo that he is less credible than someone older. I think, since the biographical notes were circulated, we should reflect that.

Second, he has been an associate Professor of Law at the University of Toronto, where his tenure was granted in 1995. He was teaching at the University of Toronto School of Law until 1999. According to the same CV, which was circulated, he has been a frequent advisor and consultant to the Canadian government, including to the Law Commission of Canada.

If he is teaching presently under invitation at a Michigan law school, that does not make him an American. It simply makes him a noted Canadian whose competence is recognized based on all the books that he has published on federalism, and he has been published in *The Canadian Bar Review*.

According to the documents that were circulated to us, the four fundamental principles that the Supreme Court recognized as being entrenched in our Constitution — federalism, democracy, protection of minority rights, and constitutionalism — are essentially taken from his contribution to the Supreme Court of Canada.

I would say to the honourable senator that even though he is a young professor, he is rather gifted.

That being said, I have some difficulty following the honourable senator when she said that we are not representing the electorate. I am sorry, but I was sworn in as a senator for Kennebec. Like my 23 colleagues from Quebec on both sides, we all represent a senatorial district. That was put in the Constitution in 1867, on the map of 1864, and it has not been changed since then.

I drew this fact to the attention of the honourable senator this morning at the Standing Senate Committee on Legal and Constitutional Affairs, for very specific reasons. We have to protect and represent the minorities in Quebec, and that is a special embodied structure in the Senate, for at least the Quebec senators. When I am told that I do not represent an electorate, I am sorry, but I represent the electorate of a constituency in Quebec, as does my colleague Senator Setlakwe. Because of that, we have the responsibility to represent the interests and specific minority consideration of Canadians living within those special boundaries.

I take exception to the honourable senator when she says that we do not represent an electorate. I am sorry, I represent an electorate. In the rules of our Parliament, we are entitled four times a year to send out a householder informing the people for whom we speak, although it may not be designated specifically as an electorate, what we do in the Senate. They judge me as to whether I am a good senator or a bad senator. I have a link with the people because I am entitled to inform them four times a year, directly sent through Canada Post, what I am doing. How do we reconcile that with the fact that we are not supposed to represent an electorate?

We are not mandated directly, but constitutionally, as a Quebec senator, I have a direct link with a very specific constituency. If I fail to do that, they can democratically express their views. I feel that, even though we are not elected, we have a legitimacy with the Canadian people. It may not be that way in the province of Ontario and the other provinces, but in terms of Quebec we definitely have a very specific mandate. Each one of us interprets his mandate the way he or she wishes to interpret it. I definitely represent some people, or at least their interests.

Senator Milne: In response to Senator Joyal, I must admit to a certain generational bias. I have a 43-year-old son now. To me, anyone under age 43 is young and will continue to be young.

As to the electorate that the honourable senator claims to represent in Quebec, certainly he does represent a district in Quebec. However, he represents more than just the electorate in that district; he represents everyone within that district. I was referring strictly to people who were elected.

I have listened in the committee with great interest and with attention to the honourable senators very penetrating and intelligent questions to the witnesses. I must say to the honourable senator, however, that, other than beyond these questions that I have answered here today, I would prefer if he made his points, as he is entitled to do, within his own speech.

For me, this is a very emotional issue. If I can have the attention of the Senate, this is an emotional issue all around. I feel that if Quebec were ever to leave Canada, it would rip the living, breathing heart out of this country. To me, that is a very important thing, and I want to do everything I possibly can to prevent it. Not only would I be a victim, all Canadians would be victims. I get emotional over that, so I am sorry, but I shall not accept any further questions.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: The matter is settled. The honourable senator says she will not accept any further questions.

Hon. Marcel Prud'homme: Will she accept comments?

The Hon. the Speaker: In any case, the 10-minute period has expired.

Hon. Thelma J. Chalifoux: Honourable senators, I wish to speak today to Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference.

As you all know, I do not have a formal legal background. Therefore, I shall leave all legal arguments to my colleagues who have this expertise. I have, however, listened and read intently all the evidence as presented, and I have concluded that this bill addresses two issues as laid out in clause 2 (1) of the bill, which reads in part:

...the House of Commons shall, except where it has determined pursuant to section 1 that a referendum question is not clear, consider and, by resolution, set out its determination on whether, in the circumstances, there has been a clear expression of a will by a clear majority of the population of that province that the province cease to be a part of Canada.

In determining the clarity of the question, or what constitutes a clear majority, the aboriginal people of the province will be consulted.

• (1720)

Grand Chief Phil Fontaine stated, in his brief to the Special Senate Committee on Bill C-20, that section 35 of the Constitution Act of 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada. It is now generally accepted that section 35 includes First Nations rights of self-government. That is certainly a cornerstone of the policy of the federal government. The historic treaties entered into, nation to nation, would have borne no other interpretation in any event.

Under Canada's Constitution, no proceeding, procedure or institution can affect those rights, positively or negatively, without the full, equal and meaningful participation of the First Nations.

Section 25 of the Constitution Act, 1982, guarantees that the Charter of Rights and Freedoms shall not be construed as to abrogate or derogate from any aboriginal treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada. Section 92.24 of the Constitution Act of 1867 gives constitutional authority and concurrent fiduciary obligation in legislative matters concerning Indians and land reserved for Indians to the federal government.

This bill provides three instances when aboriginal peoples will be consulted. The first two are set out in subclause 1(5) and 2(3), which state that the House of Commons, in dealing with whether the question and the majority are clear and sufficient, will take into account the statements or the resolutions of the representatives of aboriginal peoples of Canada.

That participation and consent requires both that First Nations be consulted in the initial determination on clarity or clear expression of a referendum question, in the determination of whether or not a sufficient political will has been expressed by a provincial population in a referendum, and in any ensuing negotiation on terms or amendments required for any province to secede from Canada.

The First Nations of Canada favour legislation that protects First Nations citizens from a unilateral declaration of independence by Quebec or any other province. Our aboriginal leaders worked tirelessly at the committee stage in the House of Commons to ensure that the bill was amended to include our rights of participation as co-governors of this land.

Those efforts resulted in amendments to subclause 5 of clause 1 and subclause 3 of clause 2, which now require consultation with our people, both on the question of clarity of a referendum question and on whether or not there has been a clear expression of will by a clear majority of the population of a province wishing to secede.

Neither the court nor Bill C-20 rules out the possibility of other political actors participating in those negotiations, including the representatives of the aboriginal peoples of Canada. Simply put, it was not for Bill C-20 to go beyond the court's reference by creating an obligation for actors other than those to which the court assigned such an obligation.

It should be added that, according to the Constitution Act of 1982, the federal and provincial governments are bound by an agreement in principle by virtue of which representatives of the aboriginal peoples would be invited to participate in discussions on any constitutional amendments that would affect the provisions of the Constitution that are mentioned in subsection 35(1). The clarity bill respects that principle by clearly stipulating that negotiations on secession would include at least the governments of the provinces, aboriginal peoples and the Government of Canada. Mr. Dion has stated clearly and recognizes that section 35(1) provides a constitutional guarantee that aboriginal peoples will be involved in secession discussions since their treaty rights in the Constitution under section 91.24 may be affected.

These provisions and guarantees are sufficient, in my view, to adequately protect and assure all aboriginal peoples — the First Nations, the Métis and the Inuit peoples — of their participation and involvement. For these reasons I support Bill C-20. I regret, honourable senators that I cannot accept any questions.

Hon. John Lynch-Staunton (Leader of the Opposition): Your Honour, do we have time for comments? I should like to comment on the honourable senator's speech. I believe that the rules provide for that.

The Hon. the Speaker: There are eight minutes left.

Senator Lynch-Staunton: I shall not need the entire time.

My comments, directed to Senator Chalifoux and her colleagues from the aboriginal community, are the following. I fear that their reliance on section 35(1) is misplaced. It does oblige the Prime Minister to invite aboriginal peoples to any conference discussing a constitutional amendment, but that is the limit of their participation. They are there to participate, but they are not part of the negotiations.

I am not the only one saying this. I shall quote from the second reading speech of Minister Dion when he introduced the bill at second reading. He said the following:

Aboriginal populations in Quebec have twice demonstrated through referenda, in 1980 and 1995, their clear will to stay in Canada. If aboriginals were to express such a clear will once again, the Government of Canada could not guarantee in advance what fate would await them...

I shall repeat that to the Honourable Senator Chalifoux, because this is a statement from the minister himself. If the clear will to remain in Canada were expressed by the aboriginal population of Quebec:

...the Government of Canada could not guarantee in advance what fate would await them, but it is committed to taking that factor into account during negotiations on secession.

There is no mention here of having the aboriginal peoples themselves be part of discussions, or even interpreting 35(1) as intended to have aboriginals and others participate, other than as spectators and debaters. There is nothing saying they will have a say in the final decision. That is why an amendment to this bill to protect the fiduciary responsibility that the aboriginals have been favoured with — and quite rightly — should remain and that their future should not be decided unilaterally without their full approval. Bill C-20 does not provide for that.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I have a further comment, honourable senators, in addition to what the Honourable Leader of the Opposition has pointed out. Let me draw the attention of all honourable senators to another bill we happen to be addressing in the house, Bill C-27, dealing with Canada's parks. I draw your attention to subclause 2(2) of that bill. What does the bill provide? Subclause 2(2) states:

For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

My heavens, we are prepared to put it in a bill dealing with parks, but we are not prepared to put it in a bill that speaks to the heritage and the citizenship and the land rights and the Canadian rights of our aboriginal peoples? Shame!

Hon. Jeremiah S. Grafstein: Honourable senators, I have just a brief comment. I sat through the evidence presented by the Grand Chief of the Crees, and he felt this was not an ordinary bill. He agreed with the minister that this was an extraordinary bill, an extraordinary piece of legislation. It is not, as the previous senator said, just an ordinary bill. He said he wanted to be there at the outset of any process dealing with his treaty and constitutional rights. I agree with him.

Is Senator Chalifoux saying that she disagrees with the Grand Chief of the Crees, aboriginal peoples who, on the referendum and since, have been the staunchest federalists in the country?

Hon. Senators: Hear, hear!

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to speak to one point, which is the fiduciary role of the Government of Canada and the Parliament of Canada for the aboriginal people. Obviously, the Supreme Court said again and again that we, the federal authority — that is the government and the Parliament of Canada — have a fiduciary role for the aboriginal nations.

I asked the question to all those who came before us, and they all said that the Senate is part of the fiduciary role of the legislative branch of the state.

• (1730)

How is Bill C-20 protecting that? I simply raise the question. We all agree that we have a fiduciary role established by the Supreme Court. The Parliament of Canada, of course, is composed of two Houses, and the Senate obviously has a fiduciary role to play.

Hon. Charlie Watt: Honourable senators, I should like to begin with a few words in Inuktitut.

[Senator spoke in his native language]

Honourable senators, I appreciate the opportunity to speak on this important bill, C-20. Once again we find ourselves at the crossroads between political expediency and the rule of law. Will the federal government implement the spirit and letter of sections 35 and 35.1 of the Constitution Act, 1982, or will it use Parliament's legislative powers to erode the principles of fairness, justice and the rule of law?

Today, we confront those issues in the context of secession. This content is of central importance to Canada, as we know it — a country we seek to unify and strengthen for present and future generations.

Bill C-20 is an important bill to ensure clarity if and when a province holds a referendum on secession from Canada. It describes what should occur in circumstances of a potential crisis. As an old saying goes, crises invokes danger and opportunity.

At this stage of our deliberations in Parliament we have the opportunity to ensure for all peoples in Canada the framework of clarity mandated by the Supreme Court of Canada to deal with the crisis of secession. We urge that a fair and balanced framework be created.

Since we need and desire clarity, we should begin this venture in our own chamber. Bill C-20 can and must be improved in this essential respect. We need to avoid risk, which is the other face of crisis.

The risk very simply is that the federal and provincial governments will get together and do a dirty deal on secession behind the backs, and at the expense, of the aboriginal peoples. The risk is that the permanent federal arrangement in the James Bay and Northern Quebec Agreement, which can only be amended with Cree and Inuit consent, will evaporate into thin, cold air. Approximately two-thirds of Quebec is subject to the terms of this important land claims treaty.

Honourable senators, basic constitutional considerations dictate that we must amend Bill C-20.

In 1983, aboriginal peoples largely contributed to the successful amendment of the Constitution Act, 1982. In particular, in section 35.1, the first ministers and we agreed that representatives of the aboriginal peoples should participate in constitutional negotiations that directly affect the status of section 91(24) of the Constitution Act, 1867, and sections 25 and 35 of the Constitution Act, 1982. Therefore, the omission in Bill C-20 of any explicit reference to the participation of aboriginal representatives in secession negotiations raises very grave concerns. This key omission is inconsistent with the "principled" approach required by the Supreme Court of Canada. It is also inconsistent with the trust responsibility of the federal government and Parliament. As a result, serious questions arise about the constitutionality of the draft legislation in a secession context.

As I stated before the special committee on June 12, the federal government is unnecessarily creating a very serious risk of a court challenge in this regard. Is this what supporters of Bill C-20 want? Is this what Canadians want? Do we really want litigation, conflict and distrust among Canadians?

If we do not amend Bill C-20, we can expect court challenges. In this respect, we should take note of inconsistencies in Minister

Dion's statement in the House of Commons and the recent letter to Makivik Corporation, representing the Inuit of Quebec. On one hand, he defended the government's decision to exclude any explicit reference to aboriginal people in subclause 3(1). He did this on the mistaken ground that they are not "political actors" for the purposes of negotiating constitutional amendments.

However, Mr. Dion argues that this should be of no concern, since section 35.1 of the Constitution Act, 1982 already guarantees the participation of aboriginal peoples in secession negotiations. If this is the reason for the omission, why does the minister refer in the bill to federal and provincial governments as participants? They, too, are already guaranteed participation in any future negotiations.

In regard to aboriginal peoples, governments have made formal constitutional commitments. However, people come and go. Later, government officials are instructed to adopt restrictive interpretations of commitments. In this way, aboriginal peoples are robbed of their democratic rights of participation.

For aboriginal peoples, the familiar cycle of dishonour and marginalization is unacceptable. There are huge stakes involved in the secession context. Thus, failure to explicitly honour constitutional commitments concerning the participation of aboriginal peoples in any future negotiations is more than unacceptable — it is outright betrayal.

Why, as aboriginal peoples, do we have to continue to struggle day in and day out to ensure democratic participation in national issues of fundamental importance? Why is the constitutional principle of democracy subjected to a double standard whenever our human rights and our future are involved? Why are we being mistreated when we seek to help Canada?

Personally, honourable senators, I feel tremendously frustrated, and I will tell you why. Bill C-20 seeks to ignore or bypass the Constitution and section 35.1 of the Constitution Act, 1982. I feel the same frustration as I did in 1981 when the patriation legislation was being negotiated.

As I informed some senators on June 12 before the special committee, in 1981, as a leader of the aboriginal coalition, I and my colleagues were instrumental in reaching an agreement in the parliamentary committee on what is now section 35 on aboriginal and treaty rights in Canada. A few months later, aboriginal leaders were at a meeting of first ministers. We were invited, but we could not participate directly in the negotiations. That is the question that was raised just a few minutes ago.

● (1740)

Honourable senators, our clause disappeared behind closed doors during that time. We were not at the table, as I think everyone remembers. I stressed this point once before that this will happen again. That is one of the reasons we insist on amending Bill C-20. For self-serving reasons, the first ministers traded away constitutional recognition of our most basic rights. Later, they tried to maintain this injustice and ultimately failed.

On June 13, 2000, Honourable Senator Andreychuk emphasized the unwillingness of the federal government to consult and negotiate with the aboriginal people in respect of Bills C-23, C-49 and the gun legislation, despite the legal commitment to do so. She described to us the shameful pattern of the government's neglect and dismissal. She said:

Honourable senators, I have been in the Senate for seven years. Each and every time a bill affecting aboriginals comes forward, it is always in the late stages that the government hustles to say that they will consult with the aboriginal community and that they will take them into account in the regulations. Each time we are told there was some error and that it will never happen again.

My concern, honourable senators, is that if aboriginal people are told that the error will not happen again after secession, trust will have been betrayed and it will be too late. This is the heart of the matter. The federal government tells us: "Trust me. Aboriginal people do not need any explicit confirmation of their participatory rights in Bill C-20." However, the principles of federalism, democracy, the rule of law and the protection of aboriginal and treaty rights require fair and equal application. According to Canada's Constitution, aboriginal people are owed more than vague and fleeting promises made by politicians.

Honourable senators, we need to improve Bill C-20 because such improvement would be in the national interest. I do not say that lightly. This improvement will also save time and money. Since 1998, we have observed a radical increase in the sums spent by the federal government to defend itself against litigation brought by aboriginal claimants. This trend must be reversed, especially with respect to legislation on clarity.

As parliamentarians, we are required to show unequivocal respect for the fundamental constitutional principles in the Constitution itself. It is critical for legislators to alert the federal government when it abdicates its trust and responsibility, when it ignores equality principles and when it pays lip service to basic constitutional provisions.

In this context, I refer to you the key study that was commissioned by the Privy Council Office in 1999. This highly relevant study is entitled the "Quebec Secession Issue: Democracy, Minority Rights and the Rule of Law." The author of the study, American Professor Allen Buchanan, concluded that the aboriginal people of Quebec "should be principal participants" in the negotiations on secession. Professor Buchanan rejects the "paternalistic" notion that, through the trust relationship, the federal government can speak or negotiate for aboriginal people in any future secession talks. He concluded his paper in this way:

...a proper understanding of the relationship between the right to secede, democracy and minority rights in the case of the possible secession of Quebec requires full partnership

for those native peoples whose distinctive rights would be directly affected by separation.

I remind honourable senators that these views were commissioned by the Privy Council Office, which was headed by the Minister of Intergovernmental Affairs in 1999. Although the study was completed last year, the Privy Council Office suppressed the study. It chose not to disclose the study's existence to the legislative committee of the House of Commons in its examination on Bill C-20. It also chose not to share it with the Special Senate Committee on Bill C-20.

Why would the Privy Council not wish Parliament and the Canadian public to know that an esteemed scholar who had written extensively on secession strongly concluded that the participation of aboriginal peoples in future secession negotiations is essential? This conduct fails to uphold the constitutional and trust responsibilities of the federal Crown.

This federal attempt to withhold vital information on the constitutional status and human rights of aboriginal peoples reinforces our main point. We cannot depend on any federal "trustee" to safeguard our rights and interests. Bill C-20 must be amended now so as to prevent further betrayals in the future.

These urgent circumstances, fundamental constitutional and political imperatives, as well as common sense itself, compel me to move two amendments on the issue of aboriginal participation. I urge honourable senators to join me in ensuring honour, equality and justice.

In relation to Bill C-20, I urge honourable senators to ensure clarity for the first peoples. When I say "first peoples," I am not speaking only of Indians. I am referring to all aboriginal peoples of this country. Please do not let the federal government leave us in the dark while it congratulates itself for creating a framework of clarity. We have been there too long.

MOTIONS IN AMENDMENT

Hon. Charlie Watt: Therefore, honourable senators, I move:

That paragraph 6 of the preamble to Bill C-20 be amended to read:

WHEREAS the Supreme Court of Canada has confirmed that, in Canada, the secession of a province, to be lawful, would require an amendment to the Constitution of Canada, that such an amendment would perforce require negotiations in relation to secession involving at least the governments of all of the provinces and the Government of Canada, **as well as the representatives of the aboriginal peoples of Canada, especially those in the province whose government proposed the referendum on secession,** and that those negotiations would be governed by the principles of federalism, democracy, constitutionalism and the rule of law, and the protection of minorities;

and in subclause 3(1) to read as follows:

It is recognized that there is no right under the Constitution of Canada to effect the secession of a province from Canada unilaterally and that, therefore, an amendment to the Constitution of Canada would be required for any province to secede from Canada, which in turn would require negotiations involving at least the governments of all the provinces **and the Government of Canada, and the representatives of the aboriginal peoples of Canada, especially those people in the province whose government proposed the referendum on secession.**

I thank honourable senators. I hope we all do the right thing.

• (1750)

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion in amendment?

Hon. Jeremiah S. Grafstein: Honourable senators, is it appropriate to ask the honourable senator a question or two at the moment?

The Hon. the Speaker: I am sorry, honourable senators, but the Honourable Senator Watt's 15-minute speaking period has been exhausted.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I propose that we extend Senator Watt's time by 10 minutes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Grafstein: I had the opportunity of listening to the presentations made by the Cree and Chief Fontaine. I understood that the Grand Chief of the Cree was very much in support of amendments. I assume that the honourable senator's amendments contain those principles. I was not too clear, however, with respect to the position of Chief Fontaine. He left the hearings just before the final questions were asked. Thus, I do not believe he was properly or fully questioned on this subject.

However, I read in the press immediately after that he had some quarrel or some disagreement with the Grand Chief of the Cree as to whether or not he in fact was in support of amendments to the bill. He has always made it clear that he is in support of the principles of the bill, as many of us are, including myself.

I read again today in the press that Chief Fontaine has apparently said that he favours amendments, but he obviously

supports the bill. Could the Honourable Senator Watt enlighten us as to whether or not he is in support of these amendments?

Senator Watt: Honourable senators, unlike Senator Grafstein, I was a bit taken aback by the lack of clearness of the National Chief at the time he appeared before the Senate committee. There was quite an interesting article in the paper today, as the honourable senator has mentioned, that stated that the Crees have split with Chief Phil Fontaine on the issue.

There is an election going on for the position of National Chief of the AFN. I see that he is basically saying, "We support the amendments that are being put forward by the Crees," which in a sense are the same amendments that I have just presented. I believe the national chiefs are very much in support of the amendments. At the same time, they also support the bill. I hope I have answered the questions of the honourable senator.

Hon. Serge Joyal: Honourable senators, I should like to address a further question to the Honourable Senator Watt. At the beginning of the week, we were informed that a study commissioned by the President of the Privy Council on the issue of the participation of the aboriginal people in negotiations that could lead to secession was released. At the time of its release, the committee was winding up its deliberations on Bill C-20 and moving into clause-by-clause consideration of the bill. There was no possibility for us to invite Professor Buchanan, the author of the study, to testify. Did the honourable senator have an opportunity to look into the study? How does he interpret the statement that section 35(1) is sufficient to protect the rights of the aboriginal people in any negotiation that might lead to secession?

Senator Watt: Honourable senators, the study to which Senator Joyal refers came to my attention on Monday, when I was at my home in the North. Immediately upon hearing that the study had been released, I called the honourable senator to ensure that the study was relayed immediately to the committee, in order that they could take it into consideration before they wrapped up their work. I believe the honourable senator did just that. However, I am not sure whether he understood what they were talking about at the time.

My interpretation of this particular study is that it calls upon aboriginal peoples to be participants in the negotiations, if negotiations ever take place. The study also states that we can put forward any alternatives and play the role of broker, or whatever it might be called, to the negotiations. Our role is more than just participating or being invited to participate. The study clearly describes that we have to be there in order to defend ourselves and to protect our own interests while at the same time being among the overall players. That is the way I understand it.

[Translation]

Hon. Marie-P. Poulin: Honourable senators, I have just received a copy of the amendment by my colleague Senator Watt. I asked for the French and was told it was not available.

The Hon. the Speaker: I am sorry, Senator Poulin, that matter was raised earlier. It is clear that we can introduce an amendment in either language. There is no obligation for it to be done in both official languages. Obviously, it will be translated as soon as possible.

[English]

Senator Watt: Honourable senators, I should certainly like to have it in Inuktitut, too. Unfortunately, in this place, there are only two official languages. Thus, I have to pick one. I did not pick mine.

Hon. Joan Fraser: Honourable senators, with reference to the Assembly of First Nations, can Senator Watt confirm that my memory of that session of the committee is correct? My recollection — and I do not have the document in front of me — is that both in its formal written submission and in the oral testimony of Chief Fontaine the Assembly of First Nations said that, with an abundance of prudence, it would be happy to see such an amendment, yet it would also be content to see the bill go through unamended because it did not believe such an amendment was essential.

Senator Watt: Unfortunately, honourable senators, depending upon which side we are on, we have a tendency to interpret comments in whichever way we see fit.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, has the Honourable Senator Watt's time expired?

The Hon. the Speaker: Yes.

Senator Kinsella: Honourable senators, I rise, then, to speak to the motion in amendment. However, I should like to ask His Honour if he will be seeing the clock at six o'clock.

The Hon. the Speaker: Honourable senators, in a minute, I shall be forced to do so. Perhaps I can ask honourable senators now if it is their wish that I not see the clock.

Senator Hays: Yes, it is, Your Honour.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Honourable senators, I wish to ensure that the Deputy Leader of the Government realizes that we are being very cooperative. Some of the new senators must be asking, "What is going on?" I do not care on which side they sit. They should know that any senator may say "no" and that, as such, we would have to come back at eight o'clock. I shall not do that. Sometimes it is good to educate ourselves. In a short time, we shall have 14 new senators.

For those who are asking what is going on, I say that what is going on now is that any one of them, if they are upset or feel

that they are being pushed around, can say "no." That is the rule. Of course, we are not now upset.

Senator Kinsella: Honourable senators, in rising to speak in support of the motion in amendment submitted by Senator Watt and seconded by Senator Adams, I, too, wish to underscore the importance and relevance of this amendment with reference to the testimony that we heard in committee. I refer in particular to the testimony of Grand Chief Dr. Ted Moses.

• (1800)

We have on the record of this house the statement that Chief Ted Moses made in his letter dated Monday, June 19. That letter appears in the *Debates of the Senate*, because I read that letter into the record. It was addressed to Senator Fraser as the chair and to myself as the deputy chair of the special committee.

If all honourable senators will study the Buchanan report, which was attached to the letter from Chief Ted Moses, they will conclude, as did Chief Moses, that Professor Buchanan's study is very relevant to Bill C-20. The pith and substance of Senator Watt's amendments are completely supported by the findings of the study done for the Privy Council Office by Professor Buchanan.

It seems more than passing strange that we would be examining a bill in this house dealing with parks, Bill C-27, and making the special provision to ensure that there is no misunderstanding, that the parks bill would not interfere in any way with the rights of the aboriginal peoples as provided in section 35 of the Constitution Act. And yet we hear from the testimony of the witnesses who appeared before our special committee, their special plea, their specific plea, for clarity. They want assurance that their rights will not only be respected but that they will have the rightful opportunity to represent themselves in the negotiations that are envisaged by the bill that is now before us.

I cannot understand how any honourable senator would not immediately see that, if we go out of our way to put into a minor bill the special provision that we find in clause 2(2) of the parks bill, we would not put into a bill that the drafters themselves say is of the utmost gravity a provision that would be similar, such as is being proposed now by Senator Watt.

Honourable senators, let me speak further to issues —

The Hon. the Speaker: Honourable senators, I regret to interrupt the honourable senator but the time for Senator Watt's speech has expired. No, I am sorry, you are speaking on the amendment, Senator Kinsella. Please continue.

Senator Kinsella: Rule 37(3) provides that the sponsor of the bill and the first senator speaking immediately thereafter would be permitted not more than 45 minutes. The tradition here has been that, when the sponsor of the bill speaks, then it comes to the opposition. Let me hasten to add that I shall not need 45 minutes, honourable senators —

The Hon. the Speaker: That rule applies to a bill. It does not apply to an amendment.

Senator Kinsella: That is fine.

Senator Cools: We change the rules as we go along.

Senator Kinsella: I shall continue and not use up any more of my 15 minutes on this. We shall come back and use 45 minutes to speak on the main motion, if we get to that.

In whatever time I have available, let me turn to the bottom line, the decision with which all honourable senators are struggling, namely, the decision that we must take here next week on the proposed exclusion of the Senate from a determinative role in Bill C-20.

I believe that that decision will really be a watershed or a turning point in the history of the Senate of Canada. History will record whether we, the senators who were on watch in the year 2000, defended the 133-year-old bicameral Canadian Parliament or whether the present class of senators bowed to the pressure of the executive.

Honourable senators, I have empathy for senators who are under tremendous pressure. We respect you for dealing with that pressure. We encourage you not to submit to the yoke of political masters.

My plea to honourable senators is that you reach down deep and muster the strength and fortitude to remain, quite frankly, more loyal to the Senate of Canada and to the Constitution of Canada than to the fleeting pressures of the political leaders of the moment. For this, honourable senators, is one of those rare moments in parliamentary life when it will be the strength of individual judgment that must prevail over the press of a whip.

Indeed, the Fathers of Confederation recognized the importance of securing the tenure for senators as a means by which they could truly represent minority or regional interests over the political pressure of the day.

While the original tenure in the Senate was for life, the present tenure until age 75 ought to afford sufficient protection for independent judgment.

Honourable senators, in the past, our predecessors gave us many examples of senators rising to the occasion in moments of testing. In my own limited time in the Senate, I recall the fortitude of senators on the Canada Council bill —

Senator Cools: I remember very well.

Senator Kinsella: — and the abortion bill, to name only two. We are fully cognizant, honourable senators, of the enormous

political pressure that has been brought to bear on many honourable senators by representatives of the executive power. Perhaps this unseemly interference with senators should be the subject of a separate inquiry and possibly legislation.

In the meantime, I trust that we will remain resistant to this pressure and that, unless some are still working to improve on their respective curriculum vitae, we will see our duty as honourable senators to be the only epitaph that we really need.

Honourable senators, I am sure we have been asking ourselves, how did we get into this situation? I feel that, in the words of one of my western Canadian friends, "Things seem to be in the saddle and are riding mankind." We in this chamber must find the fortitude to come together and put the Canadian people back into the saddle.

The attempt of the Bill C-20 drafters to exclude the Senate is no small matter. In the words of Professor Smith, from Saskatchewan, one of the witnesses we had before our special committee:

To abandon bicameralism at the moment the Canadian federation faces its greatest test is to abandon the principle that made Canada possible as a plural society in the first place....

• (1810)

We then had Mr. Justice Estey tell us:

Here...the Senate has a distinct function in serving its duties in the bicameral legislature. Anything that interferes with the Senate's exercise of that power is unconstitutional.

Mr. Justice Estey further stated:

How is it that Bill C-20 has survived its unconstitutionality when it has effectively and indirectly undermined the concept of bicameral Parliament?

That was from an academic and an eminent former justice of our Supreme Court.

We also heard from a provincial premier. Premier Binns of Prince Edward Island wrote to our committee on June 15. This is what he said:

From the point of view of the proper functioning of the Senate, I share the concerns of those who see the implementation and functioning of Bill C-20 as a realistic threat. Until other arrangements are in place, Prince Edward Island should be true to its historic position: the Senate is important in defending the Island's representation in both Houses of Parliament. To the extent that Bill C-20 either directly or indirectly undermines the validity and functioning of the Senate, a province like Prince Edward Island must register concern.

Honourable senators, as I said, this is the testimony not of a group of academics alone but, rather, of a cross-section of academics who are in debate — a former justice of the Supreme Court and a first minister. They are saying that the Senate and bicameralism are important for us and let us not see Bill C-20 go through with the Senate being relativized as is presently proposed.

The only answer advanced by the minister responsible for this bill as a reason to exclude the Senate is because he claims it is not a confidence chamber, or, to put it another way, the government, on the theory of responsible government, is only responsible to the House of Commons. The proponents of the bill attempted to make that argument, which we dealt with at second reading. As I said in my argument at second reading, there could be no more irrelevant a position advanced. It simply makes no sense.

The government, since the advent of responsible government, has been responsible to the lower house. We have never seen a bill like this one before, which so blatantly strips the Senate of its rightful role as protector of the regional and minority interest in Canada. The theory of responsible government has absolutely nothing to do with this bill and certainly is not only a wrong argument for excluding the Senate but also, quite frankly, an irrelevant one.

On ordinary legislation, the Senate, except for the initiation of money bills, has a role equal to that of the House of Commons. This bill has never been portrayed by Minister Dion as a constitutional amendment, which is another case where the role of the Senate differs from that of the House of Commons. From a constitutional point of view, the Senate ought to have the same position as does the House of Commons in this bill.

In the absence of the Senate being abolished, we in fact have in Canada a bicameral Parliament. Therefore, on a matter as important to the future of Canada as is this bill, if the minister finds a role for the House of Commons on determining the clarity of the question and the majority, then on the basis of our bicameralism, which is what we have in reality, an equal role must be there for the Senate.

The minister helpfully produced a list of a few statutes in which there is a role for the House of Commons but not one for the Senate. These precedents were relied upon. For those of us who examined the legislation on that list, the issues that were dealt with were not relevant. We have done that examination, as have many others. They are, for the most part, administrative issues, dealing with reports being submitted, et cetera — certainly nothing even close to the treatment of the Senate in a matter that is the content of Bill C-20.

The Hon. the Speaker: I hate to interrupt, Honourable Senator Kinsella, but your 15-minute speaking period has expired.

Senator Hays: Honourable senators, I propose that Senator Kinsella's time be extended for 10 minutes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Kinsella: One other argument has been raised during our debate by my colleague Senator Kroft, namely, that the Senate willingly gave up the power to veto individual amendments in 1982 and, therefore, has no role to play here. In fact, he says the provinces were elevated to take over the role of the Senate.

Honourable senators, the constitutional amendment in 1982 contained a number of compromises, but the result of 1982 was a statute of Westminster, not a statute of this Parliament. As well, if we take Senator Kroft's argument to its logical conclusion, then the clarity of the question and the majority should be considered by provincial legislators as well. They should not be relegated to the role of advisors as has been the Senate. They cannot have it both ways.

Honourable senators, the government continues to believe that Bill C-20 is the right course to take following the near disastrous referendum result in 1995, and the ill-advised reference to the Supreme Court that resulted in the Advisory Opinion on Quebec Secession. The minister said:

The government is made responsible much more by the clarity bill than without the clarity bill. If there were no clarity bill, during a scrum the Prime Minister may say, "Yes, it is clear, we will negotiate." With the clarity bill you need to have a deliberation.

The minister is wrong and the government is wrong if they believe that Bill C-20 will achieve the goal of clarity during a future referendum. If anything came through loud and clear during our hearings on Bill C-20, it was that clarity is lacking in this bill. Those witnesses who supported the concept of a bill were disappointed by the details. Perhaps the most startling evidence we heard came from Roger Gibbons, who has been quoted by others. He told us that the bill enjoys widespread support in Western Canada. He also told us that if Western Canadians knew the details of the lack of clarity in the bill and the minor role played by the provinces, that support would quickly vanish.

I want to go through the bill with you, honourable senators, in order to put on the record at third reading the concerns that were raised in committee by both witnesses and honourable senators.

Let us begin with the preambular paragraphs. On page 2 of the bill, the seventh preambular paragraph reads:

WHEREAS, in light of the finding by the Supreme Court of Canada that it would be for elected representatives to determine what constitutes a clear question and what constitutes a clear majority...

Honourable senators, this is not a true statement. It is a false statement. The seventh paragraph in the bill makes a false statement because at paragraph 153 of the Advisory Opinion of the Supreme Court, the court writes:

...it will be for political actors to determine what constitutes "a clear majority on a clear question" in the circumstances under which a future referendum vote may be taken.

Simply on that basis, this bill has to be rejected in its present form. It is not true.

• (1820)

Honourable senators, we have heard evidence that is incontrovertible, that the Supreme Court, in its opinion, did not say that it would be for elected representatives to determine what constitutes a clear question. The seventh preambular paragraph to this bill is simply false.

In committee, I asked Professor John McEvoy the following question:

Would you not agree that we should expunge that paragraph because it is not true? Also, would you not agree that the advisory opinion of the Supreme Court does not speak to excluding the Senate from this process?

Professor McEvoy responded with:

I would agree with you. As I said in my statement, there is some cause for doubt whether or not that preambular paragraph is an accurate statement of the Supreme Court's opinion.

Honourable senators, clause 1 of Bill C-20 provides for the House of Commons to determine the clarity of the question, with the Senate relegated to a consultative role. Clause 2 of Bill C-20 provides for the House of Commons, following a referendum result, to determine whether the majority is clear. Again, the Senate is only provided a consultative role.

When I look at the whole legal process that is being proposed, that process commences with members of the House of Commons assessing the clarity of the question and subsequently the clarity of the result. As we all know, there are 301 members of Parliament. Where do 103 of them come from? The Province of Ontario.

Senator Cools: That's right! Long live Ontario. Loyal she remains.

Senator Kinsella: The Province of Ontario borders on the west of the province of Quebec. My province borders on the east. Yet there are only 700,000 people living in the Province of New Brunswick. We are fortunate to have one of the best premiers that we have ever had in that province sitting in the chamber today, and we were fortunate up till a few years ago to have two of our fine premiers sitting in this chamber. The whole Maritime region has 25 members in total in the House of Commons.

As a senator from New Brunswick, I feel, along with my colleagues from New Brunswick, and together with our other Maritime colleagues, that we would have a tremendous responsibility to counterbalance the awesome power that would otherwise be exercised if only half of our bicameral Parliament addressed something that can only speak for Central Canada.

In committee, I asked Professor Behiels the following question:

What, in your view, was the genius of the Fathers of Confederation when they conceptualized of an upper house to be composed of members chosen on the basis of senatorial divisions whereby the Maritimes has 24 and Ontario has 24? What was the genius in terms of protecting minority rights? As you know, because of section 16.1 of the Charter, the Province of New Brunswick has a special constitutional obligation to protect the equality of two linguistic communities. This whole process is very pressing for New Brunswickers and Maritimers.

Professor Behiels responded with:

You are absolutely right. I could not quite understand the language of the Supreme Court when they talked about limited numbers of political actors. They then wrote that into the bill and in the process they wrote out a role for the Senate at the very early stages. I believe that is unacceptable. Honourable senators are quite capable in their positions to defend your institution and you should do so with tremendous vigour. Indeed, you should go to the Canadian people with that concern because the Senate is an integral part of Parliament. It has been and should continue to be an integral part of Parliament, especially on such a crucial issue as the break-up of their country.

He went on to say:

I fully understand your point of view, and on this point you should insist upon amendment that in fact writes in the role of the Senate from the beginning. Otherwise, why are you here? What is your role? You have been reduced to floor sweepers.

Honourable senators, I asked Professor McEvoy if he could appreciate the need that members of this house feel to amend this bill. Would he find any offence in the bill being amended so that the Senate would be able to meet its responsibility and do its duty? Professor McEvoy said:

In a perfect world, the Senate, being the House of a federation, it is the Senate that should make this decision, not the House of Commons, for the very reason that you give. If you must make a choice of one house over the other, I prefer the Senate as the voice of the regions of Canada rather than the House of Commons, as it is weighted by population in the centre.

Clause 3 of Bill C-20 says that an amendment to the Constitution would be required for a province to secede. It names issues that should be addressed in negotiations.

During our hearings, some senators felt that the bill only involved the clarity of the question and the clarity of the majority and that the negotiation stage, should we ever reach that point, was not provided for in the bill. However, clause 3 speaks directly to the requirement for a constitutional amendment, without telling us which amending formula would apply. One witness, Professor Magnet —

The Hon. the Speaker: Honourable Senator Kinsella, I regret to interrupt you, but your time has expired.

Senator Kinsella: Two more minutes?

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we have been going for 25 minutes, but I think it would be in order to extend the time of Senator Kinsella for another five minutes.

The Hon. the Speaker: Is it agreed, honourable senators, to extend the time for another five minutes?

Hon. Senators: Agreed.

Senator Kinsella: It was Professor Magnet who said that the unanimity provision for constitutional amendment would apply. Others we heard from were not sure about that. In fact, they argued that they thought the 7-50 rule would be the appropriate one. The minister seems as confused on this issue as he is on the legislative basis for the bill.

Clause 3(2) says that before proposing any constitutional amendment, the government is to take into account the rights, interests and territorial claims of the aboriginal peoples.

Our colleague Senator Watt has spoken clearly to this point, and I support everything that he said, as well as his amendment.

I shall not keep you any longer on this. I see my colleague Senator Fraser is here now. She did a first-class job as chairman of the special committee, and I publicly acknowledge the work that she did. It was very difficult work because the substance of our work was so terribly important. At times, as I looked around the room, about a quarter of the Senate was present, and all had questions. To be able to manage that committee, in the time that we had, showed a great deal of skill, and I wish to place on the record my acknowledgment of that skill.

On motion of Senator Carstairs, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I would call, under Government Business, Item No. 7, continuation of debate at second reading on Bill C-19.

CRIMES AGAINST HUMANITY AND WAR CRIMES BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Stollery, seconded by the Honourable Senator Carstairs, for the second reading of Bill C-19, respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts.

Hon. A. Raynell Andreychuk: Honourable senators, I am deeply honoured to be able to finally speak to Bill C-19. This bill implements Canada's obligations under the Rome Statute of the International Criminal Court. It also amends the provisions of the Criminal Code respecting war crimes by making it an offence to commit genocide, a crime against humanity, or war crime, and affirms that any immunities otherwise existing under Canadian law will not bar surrender of accused persons to the ICC or to any international criminal tribunal established by resolution of the Security Council of the United Nations.

• (1830)

Let me speak first about the concept of the ICC and to the clauses in Bill C-19 that are the implementation clauses for the ICC. Gross violations of human rights, widespread attacks against the principle of humanity, crimes generating massive victimization of peaceful populations which shock the conscience of women and men: these conflicts and atrocities that affect contemporary society demand a prompt response from responsible decision-makers. That, in a sentence, is what the ICC is about. It is the best response for all humanity moving the world towards a justice system for international atrocities.

Honourable senators, allow me to quote Professor Cherif Bassiouni:

A journey that started in Versailles in 1919 is about to come to Rome in 1998....This three-quarter of a century journey has been long and arduous. It was also filled with missed opportunities and marked by terrible tragedies that ravaged the world. World War I was dubbed "the war to end all wars", but then came World War II with its horrors and devastation. Since then, some 250 conflicts of all sorts and victimization by tyrannical regimes have resulted in an estimated 170 million casualties. Throughout this entire period of time, most of the perpetrators of genocide, crimes against humanity and war crimes have benefited from impunity.

Professor Cherif Bassiouni wrote these words on the eve of the Rome Diplomatic Conference for the establishment of an International Criminal Court. The adoption of the ICC statute on July 17, 1998, represented a crucial achievement. However, as every journey is a point of arrival, it is also the departure towards a new objective: the entry into force, through the ratification of 60 states, of the ICC.

I am pleased, honourable senators, that Canada is finally moving towards ratification. It has been some two years, and many of us had wished that Canada had moved more quickly, particularly that Canada would have highlighted this moment of ratification of the ICC in such a way that it would have drawn attention to the issue of the international court in communities across Canada. It is no small feat for Canadians to be able to join the civilized part of society that demands the rule of law apply in these situations. I am, however, pleased that we are finally at this point despite the difficult conditions in which we find this ratification process, Bill C-19, coming to this forum. I would have hoped that there would have been much debate, and I would have hoped that there would have been priority given to this bill. Regrettably, that has not been the case, but I trust that it will not diminish the importance of this moment.

Many individuals and non-governmental organizations, as well as governments and institutions, deserve our gratitude for their efforts to bring about the prosecution and punishment of the most serious crimes under international law. Many jurists should be noted, including those who tried to build on the legacy of Nuremburg and the Tokyo Tribunals.

Two institutions hosted most of the discussions concerning the creation of a permanent system of international criminal jurisdiction. They are the Association International de Droit Pénal, the AIDP, and the International Law Association, the ILA. In addition, since its establishment in the 1970s, the International Institute of High Studies in Criminal Sciences, the ISISC, based in Siracusa, has been very involved.

The Inter-Parliamentary Union was the first parliamentary organization to call for an ICC, in 1926. These and other initiatives throughout the entire period of the Cold War, when the superpower confrontation blocked the development of international justice as envisioned in the Nuremburg precedent, paved the way for developments in the area of international criminal law, such as inclusion of the concept of an international court in the 1973 convention against apartheid.

In 1989, with the fall of the Berlin Wall, the ICC was reinserted on the agenda of the United Nations General Assembly at the request of a member of Parliamentarians for Global Action, His Excellency A.N.R. Robinson, currently President of the Republic of Trinidad and Tobago and, at the time, convenor of the PGA International Law Program. As a

result of the work of PGA's network of over 1,300 members in 100 parliaments, this dream of having an international court is now coming to its last phase, and parliamentarians must rededicate themselves to ensure that through their networks, through their non-partisan activity, we ensure that this court does in fact come into being.

After the creation by the UN Security Council and the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda, and while not setting their national agendas aside, states proved more willing to look to international humanitarian issues. In fact, Mr. Hans Corell, UN Under-Secretary for Legal Affairs, recently, in canvassing UN members, noted that members still rated peace and security as their main concern, but with the rule of law in international relations being a close second.

The ICC negotiations at the UN and in Rome were extremely difficult, but the final compromise reached at the 1998 diplomatic conference has been considered by many, including the UN Secretary-General, His Excellency Kofi Annan, as "a giant step forward in the march towards universal human rights and the rule of law."

The Conference Committee of the Whole, chaired by Canadian ambassador Philippe Kirsch, and its drafting committee, presided over by Professor Cherif Bassiouni, achieved the core objective of bringing together the pieces of the puzzle: 128 articles on law and procedure divided into 13 normative parts, as well as a highly significant preamble and a final act.

The preamble, *inter alia*, affirms the duty of every state to prosecute and punish international crimes and their obligation to press for punishment of perpetrators of these atrocities. The latter instrument contained the mandate for the UN Preparatory Commission, currently engaged in the elaboration of the rules of procedure and the elements of crimes for the court.

There are a few areas of the Rome Treaty I wish to highlight. First, the crimes in the statute are crimes against humanity, genocide or a war crime, and they are defined on the basis of international law. The crime of aggression is yet to be defined and remains controversial. It is important to note that war crimes include those in internal armed conflicts. Today's world is more often than not affected by internal conflict, such as those in Sierra Leone, Rwanda, Kosovo and Chechnya, to name a few.

Second, the court is complementary to national judicial systems and will only take jurisdiction when states are unwilling or unable to bring perpetrators to justice.

Third, proceedings may be by any state, by the Security Council or by the prosecutor. The prosecutor's initiating role is a crucial element and is offset by checks and balances on the prosecutor.

Four, the court is not subordinated to the Security Council but has a constructive relationship with it. The Security Council will only be able to delay proceedings by an affirmative action and only in the form of a resolution adopted under Chapter VII of the UN Charter dealing with breaches of international peace and security. If, for example, there is any veto in the Security Council, the case can proceed by the International Criminal Court.

The strength of the ICC and some of the main objectives of its proponents are as follows.

• (1840)

The main objective of the ICC is to get 60 ratifications and to turn the court into a reality. It is encouraging to note that as of last week 100 countries have signed. "Signature" means obligation to cooperate with the implementation of the statute. To date, 13 countries have ratified. It is significant to note that the first country to ratify was Senegal. To date, four other African countries have signed the agreement.

With 514 treaties lodged at the United Nations, this one is more than pious invocation, if we can reach the 60 members, because it sets out not only the intent but the implementation mechanism to make it a functioning institution, one with continuity and effectiveness.

The second objective is that the court not be retroactive. I believe that non-retroactivity was included to encourage ratification, but its greater function may be to serve as a clear standard and to act as a deterrent for all would-be perpetrators. In fact, this view has often been pointed out by Mary Robinson.

Third, utilization of rules, concepts, and procedures from all criminal systems around the world will maximize the potential for the court to be a just and fair one. A high degree of safeguards, checks and balances is being built in.

Fourth, the permanent court will benefit from just that, its permanency, to act more expeditiously than the ad hoc systems.

I hope that the committee studying the bill will ensure that the implementing procedure adopted in Bill C-19 most closely resembles the procedure contemplated for the International Court, both in practice and in keeping with its intent.

I want to commend Ambassador Phillipe Kirsch on his even-handed style and his personal commitment to seeing the Rome Statute come into force, both at the Rome conference and as he guides it through the preparatory commission. He has carried on a proud Canadian tradition of diplomacy in humanitarian cases. His efforts have not gone unnoticed.

I regret that we were not able to move more expeditiously to ratification. I believe that this bill should have received the highest priority, including a more timely and appropriate process

here in the Senate. Nonetheless, its passage is important so that Canada's ratification can be completed.

In that regard, while I have heard it said that Canada's implementation legislation could be a model for other countries, I believe that its example is not to be a model but to be instructive and informative, at best. Many other countries have already embarked on an implementation strategy, such as the SADC countries. Their need is technical assistance and a prodding of the political will. In this, parliamentarians and parliamentary associations have the most effective means of assisting the ratification process.

As chairman of the International Law and Human Rights Committee for Parliamentarians for Global Action, I am pleased that parliamentary associations, which parliamentarians in Canada support, have formed a coalition group to further attempts to get technical assistance.

I trust that in committee we shall study the bill to ensure that we have maximized the opportunities in the Rome Statute for the betterment of Canadian laws.

I shall now turn to another area of Bill C-19.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, as Senator Andreychuk's time has nearly expired, I propose that we allow her a further five minutes.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Andreychuk: Bill C-19 covers changes to the Criminal Code by creating new offences respecting war crimes. Since these changes vary from the Rome Statute in at least two significant ways, it would have been better public policy to separate these two in a different statute. The Rome Statute requires education, and its education value is lost when it is incorporated within other legislation, particularly when that legislation does not conform to the Rome Statute.

I hope that the committee will determine whether this detracts from the Rome Statute or whether it is sufficiently identifiable as to not impede good understanding of the Rome Statute and its implementation mechanisms.

Since the war crimes changes are essentially a reaction to the *Finta* decision, a separate bill would have been more desirable. The committee will need to hear from Canadian groups that have raised the constitutionality of certain sections of Bill C-19, for example, the use of different definitions and rules for war crimes committed inside Canada than for those committed outside of Canada.

This part of the bill includes a retroactivity provision for war crimes. I believe that is the opposite of what the Rome Statute does. These are fundamental differences that need proper scrutiny in committee.

At a recent conference in Africa, a UNICEF worker asked a young girl what she wanted to be when she grew up. Her answer was, "To be alive." I believe that Bill C-19, implementing the Rome Statute, will give at least some measure of assurance that future generations will enjoy the benefits that we take for granted in Canada.

The issues that plague the world will not be solved by Bill C-19, nor by the Rome Statute, but they will go a long way toward developing badly needed international acceptance of the rule of law with regard to these horrendous crimes.

Hon. Anne C. Cools: Honourable senators, I move the adjournment of the debate.

Senator Hays: Honourable senators, I regret that I cannot agree to an adjournment.

Senator Cools: I beg your pardon?

Senator Hays: I shall speak to the bill. May I have the opportunity to speak?

Senator Cools: I am a little confused. The Honourable Senator Andreychuk just spoke; I moved the adjournment.

Senator Hays: I wish to inform the honourable senator that the adjournment question was not put.

Senator Cools: It is still before the chamber.

Senator Hays: Does the Honourable Senator Cools deny me the right to speak?

Senator Cools: No, I do not wish to deny the honourable senator the right to speak.

The Hon. the Speaker *pro tempore*: The motion of adjournment is not —

Senator Cools: It would be very easy to run this place in accordance with the rules. I moved a motion.

The Hon. the Speaker *pro tempore*: Senator Hays.

• (1850)

Senator Hays: Honourable senators, I should like to say a few words about this bill, which follow my listening to the sponsor of the bill, Senator Stollery, chair of the Foreign Affairs Committee, and the deputy chair of that committee, Senator Andreychuk. I also am moved to speak by virtue of a number of non-governmental organizations that have contacted my office and others in this place and in the other place as to the importance of this bill and, in particular, the importance of us dealing with it expeditiously.

We have been trying to get to this bill on Order Paper for some time, but we have had difficulty because of the pressure created

by other matters. I have been involved as deputy leader in consultations with senators and others. It is important that we give second reading to this bill today so that it can be dealt with by our committee. I do not know whether it will get out of the committee in time to be returned here for third reading, but it is important that an opportunity be given for the minister to be heard by the committee. I understand that the minister is available Tuesday morning of next week. If we were to adjourn this item, that opportunity would be lost. What will flow from that, I do not know. I do not know what the minister's feelings are about the bill, but I do know that this is an important bill. It is considered so by Senator Stollery and by the official opposition spokesperson, Senator Andreychuk. It is my intention to ask that the question on the motion for second reading be put, even if we must have a vote.

Senator Cools: Honourable senators, I rise on a point of order. We are out of order here. I am unclear. I was listening to the debate and was very struck by some of what Senator Andreychuk had to say. I am looking for the bill on the Order Paper. What number is it?

The Hon. the Speaker *pro tempore*: Number 7.

Senator Cools: I do not follow at all what Senator Hays means when he says that he will move that the question be put. The question before the house was a motion for second reading. I was listening very carefully to what Senator Andreychuk had to say. I was very struck by several of the issues and I felt moved to speak about them, so I moved to take the adjournment, which is perfectly in order and very proper. It is extremely improper for Senator Hays to rise and say he does not want that to happen, that he simply wants the bill to go to committee.

I am very aware that Senator Hays may negotiate back and forth, but his negotiations in no way negotiate away my right to speak. I want to speak to this bill. If Senator Hays does not want me to take the adjournment, that is a different matter. He will have to move in the proper way to proceed, and to proceed in a proper way so as to do it. I wish to speak to this bill on Tuesday.

Senator Hays: Honourable senators, I ask that the question be put.

The Hon. the Speaker *pro tempore*: Are you moving the adjournment, Senator Cools?

Senator Cools: I moved the adjournment before.

The Hon. the Speaker *pro tempore*: Do you have a seconder?

Senator Cools: The question was put on the adjournment.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Taylor, that further debate be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker *pro tempore*: Please call in the senators.

Is there agreement as to how long the bells will ring?

Senator Hays: It has been agreed between the whips that there be a 10-minute bell.

● (1900)

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Nil

NAYS

THE HONOURABLE SENATORS

Adams	Kenny
Andreychuk	Kinsella
Austin	Kroft
Banks	LeBreton
Beaudoin	Lynch-Staunton
Bolduc	Maheu
Callbeck	Mahovlich
Carstairs	Mercier
Christensen	Milne
Cook	Pearson
Corbin	Pépin
De Bané	Poulin
DeWare	Robichaud
Fairbairn	(<i>L'Acadie-Acadia</i>)
Ferretti Barth	Robichaud
Finestone	(<i>Saint-Louis-de-Kent</i>)
Finnerty	Rompkey
Fraser	Setlakwe
Gill	Squires
Graham	Taylor
Hays	Watt
Hervieux-Payette	Wiebe—42

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker *pro tempore*: Honourable senators, it was moved by the Honourable Senator Stollery, seconded by the Honourable Senator Carstairs, that Bill C-19 be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill referred to the Standing Senate Committee on Foreign Affairs.

• (1910)

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, under Government Business, I should like to call Item No. 9, the second reading of Bill C-18.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. Ione Christensen moved the second reading of Bill C-18, to amend the Criminal Code (impaired driving causing death and other matters).

She said: Honourable senators, I rise to speak in support of Bill C-18. This bill would increase the maximum penalty for impaired driving causing death to life imprisonment. It would add drugs alongside alcohol as a basis to seek a warrant to obtain a sample of blood from a suspected impaired driver in serious collisions. The bill would correct a drafting error, thereby harmonizing the French definition of "motor vehicle" in the Criminal Code with the English version. Finally, Bill C-18 would make section 553 of the code consistent with the Charter of Rights.

In most cases, licensed drivers engage in legal behaviour when they take to the road. Likewise, the consumption of alcoholic beverages by adults is a legal behaviour. However, we know that the combination of these two legal activities can, at times, produce tragic results. There are probably few adult Canadians who cannot name a relative, a neighbour, a friend or an acquaintance who has been killed or injured in an alcohol-involved collision.

Section 253(a) of the Criminal Code makes it an offence to drive while one's ability to do so is impaired by alcohol or a drug. Section 253(b) makes it an offence to drive with a blood alcohol concentration that exceeds 80 milligrams of alcohol in 100 millilitres of blood. Section 254 makes it an offence to refuse to provide a breath sample or, in certain cases, a blood sample.

It is no defence to a charge of impaired driving to say that the accused's blood alcohol concentration did not exceed 80 milligrams of alcohol in 100 millilitres of blood. The issue is whether the person's driving ability was actually impaired by whatever amount of alcohol was consumed. Conversely, it is no defence to a charge of driving while "over 80" to say that the accused did not show signs of alcohol impairment with the actual concentration found in the sample.

Honourable senators, section 255 of the Criminal Code currently sets the maximum penalty for impaired driving that

causes death at 14 years imprisonment. Bill C-18 increases the maximum penalty to life imprisonment. This would harmonize the maximum penalty for impaired driving causing death with the maximum penalty for manslaughter and for criminal negligence causing death.

This increased maximum penalty would signal the seriousness of the offence, even in those impaired driving cases causing death that do not attract the maximum penalty. I ask honourable senators to keep in mind that the maximum penalty is reserved for the worst offender and the worst set of circumstances relating to the commission of the offence.

Earlier this year, the Supreme Court of Canada, in the course of its judgment in the *Proulx* case, made the following observations:

...dangerous driving and impaired driving may be offences for which harsh sentences plausibly provide general deterrence. These crimes are often committed by otherwise law-abiding persons, with good employment records and families. Arguably, such persons are the ones most likely to be deterred by the threat of severe penalties.

No one is suggesting that criminal legislation alone will suddenly stop all impaired driving behaviour. Surely, however, we can expect the criminal law to contribute in the struggle against impaired driving. To the extent that criminal legislation can deter, raising the maximum penalty for impaired driving causing death to life imprisonment will help.

Also, we ought not to lose sight of the fact that such an appropriate use of the criminal law is a denunciation by society that driving while impaired is unacceptable and deserving of our maximum penalty. Impaired drivers kill themselves, their passengers, and other road users. The tragedy, and the wrenching frustration, is that these deaths could so easily have been avoided. The fatal formula is simple. As alcohol consumption increases, the ability to evaluate one's own competence to drive decreases. If the individual has not made a prior lifestyle choice never to drink and drive, the door is open for the individual to persuade himself or herself with the beguiling words, "I was drinking, but I'm okay to drive."

Information from the Insurance Corporation of British Columbia indicated that for 1998 more than 80 per cent of deaths in alcohol-involved road collisions in British Columbia were drinking drivers and their own passengers.

Honourable senators, under section 256 of the Criminal Code, a peace officer may seek a warrant to take a sample of blood in narrow circumstances. The officer must reasonably believe that in the preceding four hours a person, as the result of the consumption of alcohol, committed a drinking and driving offence resulting in death or injury. A doctor must be of the opinion that the taking of the blood sample would not endanger the life or safety of the person.

Section 258 of the Criminal Code provides that a blood sample that is obtained for alcohol testing may be tested for the presence of a drug other than alcohol. However, under section 256, cases do arise where the officer does not have the required grounds related to consumption of alcohol to seek a warrant to take a sample of blood. Bill C-18 would add reasonable belief that the alleged offence was related to drug consumption as a basis to seek a blood sample warrant under section 256. It is anticipated that the number of cases in which police would seek the blood sample warrant, based on a drug other than alcohol, would be comparatively few.

Honourable senators, Bill C-18 would correct the French version as to the definition of "motor vehicle" in section 2 of the Criminal Code. The current French version excepts from the definition a vehicle that is propelled by any means whatsoever. It should specify the exemption of a vehicle that is moved or propelled by musculaire power. The English version of the definition does not have this problem.

Bill C-82, which was introduced in the previous session of Parliament, amended the maximum penalty for the offence of driving while disqualified. Where the Crown proceeds by indictment, the maximum penalty was increased from two years' to five years' imprisonment. Driving while disqualified is listed in section 553 of the code as an offence that comes within the absolute jurisdiction of a provincial court judge. As such, there is no right to a jury trial. However, paragraph 11(f) of the Charter of Rights and Freedoms requires that an accused be given the right to a jury trial for an offence that carries a maximum penalty of five years' imprisonment or more. Bill C-18 would remove driving while disqualified from the list of "absolute jurisdiction offences," thereby ensuring compliance with the Charter.

Honourable senators, along with Bill C-82, which passed in the previous session, Bill C-18 would further implement recommendations for specific Criminal Code amendments that were made in the other chamber by its Standing Committee on Justice and Human Rights in May 1999. Such criminal code law amendments are one part of the combination of measures needed from governments, organizations, families and individuals in order to reduce and, we sincerely hope, one day, to eliminate impaired driving.

• (1920)

Society has come a long way in this important work thanks to the efforts of advocacy groups, police forces, schools, governments, breweries and distilleries, families and individuals. It is reassuring that we seldom hear the brazenly talk of having one more for the road. Instead, at functions where alcohol is served, persons proudly declare their DD, or designated driver, status. However, the sad reality is that a small percentage of drivers continue to drive while impaired.

This means that despite our progress, there is still much to be done.

Strong laws are part of the solution, but where anyone sees a person with an alcohol-fogged mind getting behind the wheel of a car, there is an obligation to take steps to ensure that driver does not proceed to the highways.

Over the last few months while this bill has been going through the other place and proceeding to here, I, as well as many in this chamber, have received numerous letters from persons and organizations urging the House of Commons and the Senate to proceed with this bill as quickly as possible so that in the summer months particularly, when these types of accidents are very high, perhaps some prevention could take place.

These letters spell out a long litany of tragedies — families, mothers, sons and friends who have perished as a result of this disease, shall we say. In many cases, two, three or four years was the sentence given.

I ask all senators to join in supporting Bill C-18, sending a strong message that impaired driving is not acceptable in our society. This new maximum penalty reflects the seriousness with which we view this offence.

Hon. Marjory LeBreton: Honourable senators, I should like to thank my colleague Senator Christensen for her appropriate remarks.

Honourable senators, I, too, am pleased to speak in support of Bill C-18. In the spirit of Bill C-82, passed one year ago, Bill C-18 aims to amend the Criminal Code so that a person causing death while impaired could be liable to imprisonment for life.

The current situation makes no sense at all. If a person takes a gun, with its clip of ammunition, and shoots someone, he or she is condemned as a criminal, but if the weapons used are an ignition key and a mickey of rye, the same impaired person who kills on a highway is just a sociologically careless driver.

We are right to question the logic of this. Bill C-18 intends to correct that double standard. This bill will bring comfort to Canadian citizens and their families who are entitled to the lives and affections of a loved one. It is not only the families who are innocent victims of irresponsible drivers, but it is also their friends. These people also have a right to know that they are protected by bodies such as ours.

Irresponsible drivers who believe that the road ahead of them is just a continuation of a local pub or a cocktail lounge must be stopped. The statistics are dreadful and they bear repeating. Four to five Canadians are killed daily; 125 are injured; \$9 billion is spent annually in direct and indirect costs of impaired driving. An inestimable number of Canadians are the unfortunate victims of these crimes.

Let us be very clear: These are serious crimes. After each weekend, we develop a habit, especially those of us who have been through this, of reading newspapers with a double eye, one on the front pages and one on the obituary columns. Over and over again, radio or television brings us the bad and sad news.

We could have been in the situation this year of not having to consider the present Bill C-18 because last year when Bill C-82 was passed and assented to on June 17, 1999, a deal had to be made to get the bill through before prorogation. The bill was stripped of an article concerning life imprisonment for impaired drivers. The Bloc Québécois in the other place opposed this article.

Their resistance surprised me, honourable senators, because Quebec has set a very good example in dealing with the issue of drunk driving or driving while impaired. Due to that amendment, life-sentencing was excluded last year from the bill with the promise from the government to reintroduce this as a separate bill.

The Minister of Justice agreed to do that in writing on June 1, 1999, and so it is that Bill C-18, having been given third reading in the House of Commons on June 14, is now before us.

First, I am pleased to see this piece of legislation brought back with the suppressed clause concerning life imprisonment. Second, I am especially pleased to point out that the very important leadership of our colleagues in the other place helped make this happen.

I wish to express my deepest personal gratitude to Mr. Peter MacKay, the house leader of our party in the other place. Mr. MacKay agreed to the Bloc amendment last year in order to get Bill C-82 through but on the condition that the government commit itself to introduce a bill to raise the maximum sentence for impaired driving causing death to life imprisonment, as already stated, and the Minister of Justice agreed.

Honourable senators, this is a good day for Canadian justice. Bill C-18 will be establishing a greater sense of balance.

What is the present situation faced by most Canadians? A person convicted of manslaughter may get life, but an impaired driver causing bodily harm or death can only be sentenced to a maximum of 14 years, although these "terrorists on wheels," as I have called them, have usually been given very short sentences that do not match the severity of their crimes.

Whether it is manslaughter or an impaired road-killing, judges seldom give out maximum sentences unless in the presence of extremely aggravating circumstances. Ordinary people feel that drivers convicted of vehicular homicide get a relatively free ride in our courts, a slap on the wrist so to speak, and are released after vague promises to change their ways.

This is also the belief of potential perpetrators who feel they will suffer no lasting serious consequences. This will change when Bill C-18 becomes law. Impaired drivers will now face the

full extent of the law for their acts if their drinking or impairment causes death on the road. The same will be true for those who are under the influence of drugs.

I do not pretend for a moment that a maximum life penalty will prevent all careless deaths on Canadian highways, but a very clear message will be sent and impaired drivers will soon know that they are entirely accountable for their actions. This law surely will be a very strong deterrent to those who may consider driving while impaired. The prospect of life, as opposed to a couple of years, surely will have an impact. Roads will be safer. Families will be happier. Hospitals and emergency wards will be less overwhelmed and perhaps will deal with cases that they should be dealing with, instead of these. The public purse would be richer and everyone would profit — less perhaps some defence lawyers.

Honourable senators, there was an agreement between all parties represented in the House of Commons, except the Bloc Québécois, to adopt Bill C-18. I thank the Government House Leader, Mr. Boudria, the Minister of Justice, Ms McLellan, and all members of Parliament who sat on the legislative committee that made possible this achievement.

Negotiation, as we all know, is not a practice exclusive to the Senate. A one-year wait is positive when redeemed with such a positive result. Impaired driving in the past has been considered by some a simple accident of misfortune. Thanks to Bill C-18, this no longer will be the case.

Sadly, as you know, on January 21, 1996, almost four and a half years ago, alcohol and a reckless, irresponsible young man took the lives of my daughter, Linda LeBreton, and my grandson, Brian LeBreton Holmes. It, of course, cast a dark shadow across the lives of my family and countless others. I joined MADD, Mothers Against Drunk Driving, and became an active member. You may have seen other MADD members around here today doing their study on the provinces.

I am proud to report that MADD, more than any other organization, has been the driving force behind the bill we are debating today. MADD is a national group that vigorously pursues a program aimed at safer roads for our fellow citizens. Let us not forget those victims who are left permanently handicapped and mutilated for life due to the deliberate acts of negligence, acts which are unacceptable and must not be tolerated in an enlightened society such as ours. If I started right now and told you about the tragedies of which I have become aware just since becoming involved in MADD, we would be here for hours and hours.

Honourable senators, impaired driving causing death will not disappear tomorrow because Bill C-18 amends subsection 255(3) of the Criminal Code. To pretend so would be a naive assumption. We need to stop closing our eyes to such crimes. By adopting this bill, we will be in a position to say, to paraphrase Neil Armstrong, "It's a small step for mankind but a great step for justice."

Some argue that what is required is more education and programs of public awareness. However, education and public awareness alone will never successfully bring down the numbers unless sentences become much stiffer and thereby discourage social recklessness. Once this bill is passed, federal and provincial governments will have to fully cooperate in order to ensure that the life imprisonment provision for impaired driving causing death is not an empty act.

The bill before us today is another important step along a very long path. While we have some way to go, there are encouraging developments taking place across the country. The Nova Scotia government, for example, on December 1, 1999, enacted a new motor vehicle act. Any driver pulled off the road with a blood alcohol level between .05 and .08 — the last figure being the current legal limit — will automatically receive a 24-hour licence suspension. We have proof that the program is already working. In Nova Scotia, impaired drivers also may soon be forced to pay a per diem fee of \$100 for their incarceration. That is not a bad idea.

In Ontario, a lifetime licence suspension is imposed on a driver caught three times with impaired driving. The lifetime driving suspension can, however, be lifted after 10 years if the driver installs an ignition interlock device. This is a new technology that is catching on. Alberta and Quebec are taking the lead. Hopefully, this will encourage other provinces to step up these programs.

Bill C-82, which was adopted last year, now allows sentencing judges to require the use of ignition interlock as a condition of probation wherever such a program is available. Bill C-82 also made imperative that twice the amount of allowed .08 milligrams of alcohol per 1 millilitre of blood is a *prima facie* aggravating case for sentencing. As I said before, we still have a long way to go, but we are making steady progress. Because of better criminal and traffic highway laws, business and golf tournaments and other summer events, Christmas parties and office parties no longer present the dangers that they have in the past. Young people have made tremendous strides in schools and universities as they actively pursue programs to save the lives of fellow students and friends by targeting activities around graduation and summer.

Thanks to MADD, to the House Justice Committee, and to all members of Parliament both in the House of Commons and the Senate, the issue of impaired driving has moved to a new level of awareness. In addition, a section of Bill C-18 is totally new, when compared with Bill C-82. It is the provision amending section 256 of the Criminal Code. The new provision will authorize police officers on the scene of a crash to obtain a mandate for samples of blood from an unconscious driver suspected to be drug or alcohol impaired. What is new here is that it applies to drivers who are not only alcohol impaired but

also drug impaired. As was the case last year, Bill C-82 increased to three hours from two the time allowed for officers of the peace to take a blood test on suspected impaired drivers. This has meant fewer cases being discarded by judges because of this change from two to three hours.

Honourable senators, I spoke to two police officers today. That change alone has made a marked difference. They have seen amazing results in only one year.

Last year, I was honoured to participate in the debate on Bill C-82, and I am pleased to be part of this next important step. These accomplishments are more comforting than you can imagine, but I speak of no personal revenge, as our case is already through the courts. I have already said this in the Senate, and I shall repeat it: I made a decision that I did not want my family or myself to be consumed by the tragedy when we became helpless victims of a crime committed by the person who changed my family's life. Rather, I decided to do what I could to change our laws to prevent or at least reduce the chance of others being victimized by totally preventable crimes.

Honourable senators, because I believe that the Senate has always cared for the well-being of Canadians, and because I am proud to sit in this institution, I strongly urge the passing of Bill C-18 before we break for the crucial summer period which, as Senator Christensen pointed out, is a high-risk period.

The lessons carved by so much suffering, which could have been avoided, should not be lost. You can be proud to know that you are contributing a wonderful gift to people — people who may not even realize that they are the recipients of it — of a safe and healthy life.

Hon. B. Alasdair Graham: Honourable senators, in participating in this debate, I wish to congratulate Senator Christensen, the mover of the bill; and Senator LeBreton, the seconder.

In particular, I wish to take a moment to pay tribute to Senator LeBreton for the incredible determination and dedication with which she has promoted legislation of the kind which is now before us. As she has indicated, Senator LeBreton suffered tragic losses in her own family as a result of an alcohol-related accident. Since that time, Senator LeBreton has been one of the leading if not the leading advocate in Canada in her tireless and tenacious efforts to help educate all of us about the dangers of drinking and driving.

Hon. Senators: Hear, hear!

Senator Graham: As she has indicated, she and her family suffered greatly, but they were not consumed. They did not allow the tragedy to consume themselves. They have gone out and have done something about it. She and her family have personally led the charge not only in educating the public but also in raising funds to help educate our young people. For all of this, Senator LeBreton, we in this place — all Canadians — shall be eternally grateful for your efforts.

Hon. Charlie Watt: Honourable senators, I do not wish to ask a direct question on this matter, but I want to know whether this bill will also apply to people who are under the influence while operating either a power boat or a canoe. A number of lives have also been lost as a result of such incidents. If the matter is to be looked at further in the committee, I would suggest that the committee also take a good look at that area, because it is also part of the problem we need to rectify.

Senator Christensen: Honourable senators —

The Hon. the Speaker: I am sorry, Honourable Senator Christensen, but leave must be granted for you to speak at this stage.

Hon. Dan Hays (Deputy Leader of the Government): Agreed.

The Hon. the Speaker: Leave is granted. Please proceed.

Senator Christensen: In boating, if the boat is motorized, it comes under this bill; if it is not motorized, it does not. A canoe, which is powered by muscle power, is not. However, if it is powered by an outboard motor, it is.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Christensen, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we have now completed all the items that will be spoken to today under Government Business. Accordingly, I would request that all remaining items under Government Business that have not been spoken to stand.

In that we have now completed Government Business, it would now be in order to ask for leave to revert to Government Notices of Motion for purposes of dealing with the adjournment motion.

Hon. Ione Christensen: Honourable senators, under Reports of Committees is a motion regarding a report of the aboriginal committee. Is that not correct?

• (1940)

Senator Hays: Honourable senators, I had not got to the point of abbreviating the rest of the Order Paper and Notice Paper, only matters relating to Government Business. I think that I shall come to that in due course.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h), moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 27, at 2 p.m.

Motion agreed to.

HUMAN RIGHT TO PRIVACY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Sheila Finestone moved the second reading of Bill S-27, to guarantee the human right to privacy.

She said: Honourable senators, as I rise to speak to Bill S-27, an image comes to mind of Pogo, who said, in the old Walt Kelly comic strip, "I have met the enemy, and it is us." I hope today this is not the case as I make the case for a Charter of Privacy Rights for Canadians.

Technology is leaping ahead. It is becoming more and more obvious that we need ground rules and value rights and value rules. An article in the June 4 *New York Times* spoke of privacy as the new hot issue lurking just below the political radar, ready to explode onto the American scene. If you listen to the two presidential candidates, you will hear them alluding to it.

It has already exploded in Canada. Just last month, Bruce Phillips, our outstanding federal Privacy Commissioner, observed in his annual report that during the past decade he had yet to meet one person in public life or private life who has not professed great belief in the right to privacy. He also said, "I have witnessed some of those very same persons engage in activities utterly destructive of that right. Talking the talk is no substitute for walking the walk."

Honourable senators, I have talked the talk about the importance of privacy. Today, I should like to show you how I am able and am trying to walk the walk. Most important, I should like you to walk with me, because it is clearly in the interests of the society in which we all live that you do.

I have become increasingly concerned, first as a Member of Parliament and now as a senator, about the multitude of threats to privacy. In my former life, I was privileged to serve as the Chair of the House of Commons Standing Committee on Human Rights and the Status of Persons with Disabilities. During a 10-month period in 1996-97, the committee conducted an extensive examination of the changing face of privacy from coast to coast to coast through 21 communities across this country.

As our study progressed, we were both astonished and alarmed at how all-encompassing and widespread the monitoring of our personal lives has become. Computer databases, video surveillance cameras, drug testing, workplace monitoring have all become routine. Comparisons and integration of what were once discrete databases are on the rise. This so-called data matching and data warehousing of personal information is currently taking place both within and between governments and the private sector. Your lives are certainly under a microscope in many places, as is mine.

Let me give you some examples of the intrusions that we are facing — not in theory, honourable senators, but in the real world. These are facts that were brought to our attention when we did our study, situations that are exacerbated even more today.

First case: Surveillance technology no longer falls solely within the ability of national security and law enforcement agencies. This constant monitoring of individuals in public and private places is inconsistent with a free society. What privacy does one have when technology allows cameras to peer into buildings over a mile away? When they focus on you as you are walking down Sainte-Catherine Street or Sherbrooke Street? When infrared rays can pierce through thick brick walls? When super-hearing muffs can hear a whisper yards away?

Second case: In Fredericton, we heard of two pregnant women who faced the possibility of delivering children with disabilities. When they refused to undergo genetic fetal testing, it was strongly recommended that they submit to a psychiatric evaluation. In this case, the unwillingness to submit to an intrusive genetic test resulted in severe criticism. At some future point, honourable senators, will governments make certain forms of prenatal and postnatal testing mandatory? What will be done with that information, and how will it affect the reproductive rights of parents? How will it affect the future treatment by society of the children? How many intrusions by the state into human reproduction will we tolerate? Many of you have heard about the book of life that no one can read as yet — the human genome mapping that is currently moving ahead so swiftly, so fast. Honourable senators, we need a template against which we can evaluate and thereby secure our value system.

Another case: Increasingly, our workplaces are becoming like a fish bowl, with surveillance of computer activities and examination of our e-mails and our voice mail. Are we building a society on the premise that all citizens are inherently untrustworthy and must constantly be monitored in their employment simply because the technology exists to do so?

Another case: With increasing frequency, employees are being subjected to drug testing and genetic testing, concerns that our witnesses said have affected matters such as their insurance and their bank loans. There is a very serious concern that genetic discrimination will be the human rights issue of the 21st century.

Just this past week, I attended the Subcommittee on Communications, where we heard testimony from both Stephanie

Perrin and, in particular in this case, Brian O'Higgins of Entrust Technologies. Entrust is a very successful Canadian company that designs public key infrastructures, or PKIs. Mr. O'Higgins was explaining to us how this new deployment of public key cryptography in a PKI architecture will be the basis of many new innovative information systems. He told us how in Finland and Hong Kong, where cell phones are even more ubiquitous than they are here, they will soon be using their phones with some type of swipe card or scratch card or gadget to make a purchase from a drink machine or to purchase a railway ticket or a dress. Using PKI to authenticate the identity of the phone and its holder, your phone bill will reflect the transaction. This will be another of the converging technologies. This is another area where our information is being gathered and analyzed. We are certainly seeing convergence, sort of like a Dick Tracy saga, where your phone replaces cash.

More data about us is gathered, then data matched, then data mined and data sold. This is a very important information commodity, which we may never have agreed to share in the first place. There are many uninvited nosy-bodies examining your and my personal profile.

These are just some examples of the privacy intrusions that face Canadians. You can read about them every day. They are examples of the whittling away of a fundamental human right of privacy. These intrusions are not just the stuff of fiction. In 1997, the House standing committee produced a report entitled "Privacy: Where Do We Draw The Line?"

• (1950)

Among its most important recommendations was a call for Parliament to enact a declaration of privacy rights, an overarching legislative framework that would set out the ground rules to ensure that the right to privacy is respected in Canada. This quasi-constitutional document would apply within federal jurisdiction. It would take precedence over ordinary federal legislation, serve as a benchmark against which the reasonableness of privacy-infringing practices, as well as the adequacy of legislation and other regulatory measures, would be assessed. Committee members also expressed the hope that this privacy charter would be adopted in the provinces and territories.

Accordingly, for many months now, I have been working with a dedicated group of privacy advisors and legal counsel to develop a privacy rights charter. In Vancouver in March, at a privacy protection conference, I circulated over 300 copies of my first consultation draft of the charter, following which I distributed another 300 copies to all the witnesses who participated in the House of Commons hearings on privacy.

I also recently attended a conference in Toronto. I have received many useful comments on the draft. In case you think that politicians do not listen to their constituents, I can say that I have laboured long and hard with my committee studying the comments I received. Those who took the time to reflect on the draft and write to me may well see their thinking incorporated into Bill S-27.

At the heart of the proposed privacy rights charter is the recognition of privacy as a basic human right and a fundamental human value, something Canada has committed itself to as a signatory to international human rights instruments. It is of fundamental interest to the public good and is essential to the exercise of many of the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms.

The privacy charter seeks to give effect to several principles: first, that privacy is essential to an individual's dignity, integrity, autonomy and freedom, and to the full and meaningful exercise of human rights and freedoms; second, that there is a legal right to privacy; and, third, that an infringement of the right to privacy, to be lawful, must be reasonable and justifiable.

The privacy rights charter will apply to all persons and matters coming within the legislative authority of Parliament. As I mentioned a moment ago, the charter would also serve as a template for corresponding legislation in the provinces and territories.

Some honourable senators may still have fresh in their minds reports about the extensive database maintained by Human Resources Development Canada on the citizens of this country. The federal Privacy Commissioner exposed the full extent of this database in his most recent annual report. HRDC has become the federal government's largest repository of personal information on citizens, particularly through the Longitudinal Labour Force File, which has centralized and integrated so much personal data on almost every person in Canada that it proposed a significant risk to our privacy. Everything about us is known — the taxes we pay, the number of times we have been married and divorced, and everything else. The Privacy Commissioner described this research database as the next thing to a citizen's profile.

What is wrong with a de facto citizen's profile, you may ask? To paraphrase Rex Murphy, if I want a diary, I will write one. I do not want one written for me, and I do not want, nor have I, nor has any other citizen, given permission to the civil service to keep it for me.

Finally, there is no legal framework to prevent the misuse of the information. Happily, in response to the public concerns, the minister responsible for HRDC announced that the Longitudinal Labour Force File would be destroyed. It is the absence of a legal framework for these HRDC databases that strikes a chord with me. It is precisely that legal framework that the privacy rights charter is attempting to establish.

One goal of the charter, among others, is to prevent the freewheeling collection and potential misuse of information such as that quietly kept in the bowels or, rather, the hard drives of HRDC.

Honourable senators, Bill C-6 is an effective bill that answers some of the questions that are put before you today as a targeted measure of government policy that responds well to the concepts of an overarching charter. Bill C-6 was an important measure to regulate the collection of personal data by federally regulated organizations. However, the bill that I have tabled, a bill for a

privacy rights charter, goes much beyond the regulation and collection of personal information. It deals with all forms of privacy infringement — infringements of physical privacy, surveillance, monitoring or interception of private communications, and, of course, the collection, use, and disclosure of personal information.

Under the charter, every individual would have a right to privacy. This right would include, but would not be limited to, physical privacy, freedom from surveillance, freedom from monitoring and interception of private communications, and freedom from the collection, use, and disclosure of personal information. No person would be permitted to unjustifiably infringe on an individual's right to privacy. Every individual will also be entitled to claim and enforce that right to privacy, or to refuse to justifiably infringe that right of another individual without reprisal or threat thereof.

We all recognize that privacy rights are not absolute. The key is to limit unwarranted infringements on privacy. Any infringement on privacy would be improper unless that infringement is reasonable and demonstrably justifiable in a free and democratic society. An individual's free and fully informed consent would constitute one such justification.

The charter would also enhance the protection of privacy where governments enter into contracts with organizations outside government. Every person to whom the charter applies must require that any organization with which it enters into a contract or agreement complies with the charter. Thus, government would not be able to sidestep its privacy obligations, for example, by contracting out a particular function to an association, corporation, partnership or trade union.

The Minister of Justice would be obliged to review all proposed legislation and regulations to determine whether they comply with the purpose and provisions of the charter. The minister would be required to report any inconsistency to Parliament at the first convenient opportunity and to give public notice by publishing the report in the *Canada Gazette*. The minister would also be required to notify the Privacy Commissioner of Canada of any inconsistency or non-compliance at the first convenient opportunity. If the Privacy Commissioner requests, the Minister of Justice would be obliged to consult with and receive advice from the commissioner.

These review and notification obligations should also promote a new sensitivity to the implications of legislation and regulations. They will ensure greater openness in the legislative process. They are necessary to preserve this right in the face of the multitude of pressures to diminish or destroy it.

To provide greater certainty, the charter would authorize the Governor in Council to codify the infringements of privacy that are permitted by the charter. Note that this is not a notwithstanding or an exception provision. The only authority would be to codify those infringements that are justifiable under the charter. The authority does not extend to producing regulations that violate the provisions of the charter.

It is also essential that this privacy charter have paramourcy over other ordinary legislation, and inconsistency or conflict might arise between the charter and another act enacted before or after this charter comes into force. This provision would not come into force immediately as to permit those subject to the charter a reasonable chance to adjust their practices. The charter would then prevail to the extent of the inconsistency or conflict unless the other act expressly declares that it operates despite the charter. Furthermore, no provision of any other act would be construed so as to derogate from any provision of the charter.

Honourable senators, this privacy rights charter may not be perfect. That is why I hope we will have full and open consultations on the bill. However, it represents the best efforts of a dedicated group seeking to prevent what the *Economist* magazine last year described, prematurely I hope, as the death of privacy. The death of privacy is not the legacy that you and I would want to leave our country.

News of more regulation might be the last thing that the business community wants to hear.

• (2000)

It is not meant to negatively affect fair business practice. It should be welcomed for setting the guidepost for ethical practice. This is an overarching statement of principles that may guide the private sector as well as government onto a level playing field reflecting Canadian values.

I urge you not to lose sight of the value of your own personal privacy, the value of the right to be let alone, the value of the freedom from surveillance of your personal activities, finances, health, et cetera, by the state or by others.

Let us never forget that the right to privacy is a public good. As well, it is good for business; it is reasonable; it is built on trust, morality and decency. It heightens consumer confidence. Fundamentally, it is about human dignity in a democratic society.

Any way you look at it, I hope you will agree that it is what we all expect in a free and democratic country.

Hon. Nicholas W. Taylor: I found that a most interesting speech, honourable senators, but I wonder if I may ask Senator Finestone several questions.

I am particularly concerned at the interface between privacy and the public good. I am wondering whether the bill covers two areas. I am thinking in particular of airline pilots, for instance. Do you think their privacy is invaded if they are mandatorily tested for drugs? They have a public responsibility.

The other area involves DNA testing of people who have been arrested or convicted. Is it okay to have a DNA file, which might help solve crimes back in the past?

Senator Finestone: I thank the honourable senator for those questions.

In the first instance, for airline pilots, it is very much a part of their job description. They undertake that task knowing what the job description is. They have given informed consent. The basis of the bill before us, honourable senators, is that without informed consent one's privacy rights cannot be infringed upon. As well, a person can include in that informed consent that the information — say, the results of a blood test — cannot be shared with anyone else. In the case of an airline pilot, the purpose of a blood test is to ensure the safety of the people. It is within that context and that job description that that information is required. The results of a blood test are not the business of one's insurance company, nor the business of anyone else. If a man has not told his wife that he has a certain disease, that is his business, not the business of anyone else to send her that information. This information is well protected, encrypted if necessary.

Second, with respect to DNA testing, as you well know, we put through the House — and I am sure it went through the Senate — legislation respecting informed rights respecting DNA testing. I recall a very serious debate in the House of Commons on whether or not, when a person is first arrested and prior to conviction, the authorities have the right to do a DNA test. The discussion centred on the timing of the DNA test — whether arrested, when going to trial, or at conviction — and I believe we decided that at the time of conviction was preferable so that a profile is not kept.

That is all informed consent and is under the aegis of good government. It protects society. That is why it is good public policy.

I do not think this presents any kind of a problem. There would be exceptions, under certain conditions, that would prevail, because we live in a civil society that is democratic and needs protection from those who do not care to deal with us in a democratic and decent way.

On motion of Senator Kinsella, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, it is late. In the interests of expediting our work this evening, I should like to request the consent of senators to leave the remaining items under Senate Public Bills standing in their place and proceed to Commons Public Bills so that we might deal with the seventh and eighth reports of the Standing Senate Committee on Legal and Constitutional Affairs with respect to Bill C-445 and Bill C-473, involving constituency name changes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF RIMOUSKI—MITIS

THIRD READING

Hon. Bill Rompkey moved the third reading of Bill C-445, to change the name of the electoral district of Rimouski—Mitis.

Motion agreed to and bill read third time and passed.

A BILL TO CHANGE THE NAMES OF CERTAIN ELECTORAL DISTRICTS

THIRD READING

Hon. Bill Rompkey moved the third reading of Bill C-473, to change the names of certain electoral districts.

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, in the same context as my last request for consent and agreement, I wonder if, under Reports of Committees, we could leave all items standing in their place with the exception of Item No. 5, which I understand Senator Christensen wishes to move.

The Hon. the Speaker: It is it agreed, honourable senators?

Hon. Senators: Agreed.

ABORIGINAL PEOPLES

OPPORTUNITIES TO EXPAND ECONOMIC DEVELOPMENT OF NATIONAL PARKS IN THE NORTH—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Aboriginal Peoples (*power to hire staff and to travel*) presented in the Senate on June 21, 2000.

Hon. Ione Christensen: Honourable senators, on behalf of Senator Chalifoux, Chairman of the Standing Senate Committee on Aboriginal Peoples, I move the adoption of the report.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have several questions on the matter, but I shall move the adjournment of the debate so that the chairman of the committee will be here when I have something to say.

On motion of Senator Kinsella, debate adjourned.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO STUDY SENTENCING

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Bryden:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine issues relating to sentencing in Canada, and

That the Committee report to the Senate no later than June 21, 2001.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, earlier today I took the adjournment on Item No. 69 because I wanted to look into it. I have done that and am satisfied. Therefore, the question can be put.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

• (2010)

FINANCING OF POST-SECONDARY EDUCATION

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Atkins calling the attention of the Senate to the financing of post-secondary education in Canada and particularly that portion of the financing that is borne by students, with a view to developing policies that will address and alleviate the debt load which post-secondary students are being burdened with in Canada.—(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, I wish to take the same opportunity as Senator Kinsella. He received good advice not to speak more than once, but he continued, so I shall do the same tonight. Post-secondary education is of great concern to many honourable senators. As we may not have time next week, I would prefer to speak today, and I thank honourable senators for allowing me to do so.

Honourable senators, on February 22, Senator Atkins initiated further debate in this chamber on the problems of post-secondary education in Canada. In particular, he identified his concern over the high dropout rates experienced in our educational system, the lack of adequate preparation of our young people for the workplace, and the need to revisit the method of funding post-secondary education in Canada, most particularly the programs of financial assistance for students of post-secondary education. These are indeed issues worthy of our continued attention and I propose to comment briefly on some of them.

In addition, there are other related matters that I should like to draw to the attention of honourable senators. Before doing so, I would be remiss if I failed to reference the final report of the Special Senate Committee on Post-Secondary Education tabled in the Senate in December 1997. While much has happened since that report was tabled, I believe senators will still find the analysis contained in the report to be an extremely valuable guide to the policy issues bearing on this vital sector of Canadian society.

Senator Atkins is clearly correct to be concerned about the unacceptably high dropout rate from our educational system. As I observed during the debate on the final report of our special committee, in the course of the last two decades there has been a massive decline in the number of jobs in Canada requiring a high school diploma or less. In consequence, those who drop out without achieving at least a minimal level of qualification are likely consigning themselves to a life characterized by frequent and protracted unemployment and by social dependency. In effect, they are forfeiting the opportunity to become productive members of society and the resulting loss both to them and to Canada is tragic. For example, some 70 per cent of those receiving social assistance in Saskatchewan dropped out of the educational system before receiving a diploma. Taking whatever steps are necessary to minimize this unfortunate waste of human capital must be part of any comprehensive strategy for education in this country.

The dropout problem is indeed serious, but it is one in respect of which we have been making progress. This is evident in the statistics that Senator Graham provided when he spoke in this debate on April 11, but there is one area where our progress is woefully inadequate. I refer honourable senators to school dropouts among our aboriginal youth. Representing, as I do, the province with the highest proportion of First Nations residents, I am acutely aware of the enormous human cost and economic loss that results from a dropout rate for aboriginal youth that in some communities is several times the provincial rate for the non-aboriginal population.

Eliminating the educational deficit of our First Nations people is a prerequisite to them realizing their full cultural and economic

potential. This cannot be, however, if present dropout rates are permitted to continue. Make no mistake; changing these rates will not be easy. They are the result of cultural and economic forces that have evolved over many decades.

Despite the evident difficulties we must not delay. To do so would be to put yet another generation of aboriginal youth at risk. This dimension of the dropout problem is one particularly worthy of our consideration.

Should honourable senators decide to further investigate pressing issues of education, I suggest that exploring ways to reduce the dropout rate among aboriginal youth should be our first priority. In fact, I would hope that the Aboriginal Committee would undertake this challenge in their future studies.

Senator Atkins' second concern was with the adequacy of the preparation of our young people for the workplace. This is a concern that I share as well. As globalization has reduced the economic significance of national boundaries, competition has intensified and will continue to do so. If we are to succeed as a nation, we must be as productive and as adaptable as the most formidable of our trading partners. This requires that we minimize any mismatches between skills and knowledge of the graduates of our educational and training systems and the needs of Canadian enterprise.

It is important to realize that skills essential for effective long-term competition are not limited to narrow technical skills. As the recent report of the Expert Panel on Skills of the Advisory Council on Science and Technology recognized, technical competence must be supplanted by effective communication, the capacity to work cooperatively and the ability to think creatively and critically. These are precisely the skills inculcated in our universities by our faculties of arts. It is important to keep this in mind, despite the finding of the expert panel on skills that Canadian employers are not experiencing any general shortage of technically skilled people. Some provinces are embarking on policies that are essentially punitive to colleges and universities that emphasize the liberal arts.

In order to succeed, Canada needs balance the mix of skills available in our labour force. This will be difficult to achieve if the prerequisite program balance is lacking in our institutions of post-secondary education.

Senator Atkins' third concern was with funding of our post-secondary education and with the programs of financial assistance to students. While I believe these are issues I could expand upon, at this late hour I prefer to leave that to a further inquiry. Suffice it to say that there are countries where tuition for post-secondary education is much lower than it is in Canada. It is beneficial to remember, however, that in none of these countries is the post-secondary participation rate nearly as high as ours. Policies that may be suitable in an environment of restricted post-secondary enrolment are not necessarily transferable to a country with the OECD's highest post-secondary participation rate.

The difficulties evident in this area led the special committee to recommend that action be preceded by a comprehensive study conducted by the federal government and the Council of Ministers of Education and Canada into the relationship between accessibility and the costs of post-secondary education. I believe this was sound advice. Unfortunately, it was not acted upon as expeditiously as the seriousness of the situation warranted. Fortunately, but belatedly, the recommended intergovernmental review is now proceeding and I, for one, am anxiously awaiting the findings. However, I would feel more confident if this review were part of an agreed and comprehensive national strategy for post-secondary education, which is something that was also recommended by our special committee.

Each of the federal budgets since the tabling of our report has contained initiatives designed to improve the situation of post-secondary education and its students. While I feel some of these measures could certainly be improved upon — for example, making the tax credits available to students refundable rather than simply permitting unused credits to be carried forward for future use when the students are no longer in financial difficulty — I am encouraged that the government is indeed committing additional resources to this vital sector. It is difficult, however, to perceive that these measures constitute an integrated response to the evident problems. Again, there is an evident need for a national strategy for post-secondary education, one agreed to by both senior levels of government and one that would coordinate federal initiatives with those of the provinces. In a sector so vital to the well being of Canada and Canadians, there is no room for a disjointed and piecemeal approach.

Honourable senators, I wish to comment on two further issues. One concerns the general approach being used by the federal government to infuse additional resources into post-secondary education. This is a theme from our report. The special committee pointed out the need for government policy to be predicated on a recognition of the regional nature of much of our post-secondary system. We do, of course, have prestigious, research-intensive institutions that draw their students from all over Canada and from around the world. Rightly, we are proud of the reputations and the accomplishments of these universities, but we also have many excellent smaller colleges and universities and institutions that are regional rather than national or international in their orientation. These institutions are vital to the economic, social and cultural well-being of the regions they serve, and they must not be overlooked when federal post-secondary policies are under development.

• (2020)

Honourable senators, we hear so much about the plight of farmers in Saskatchewan. It is the University of Saskatchewan and the University of Regina that create and maintain resources which foster knowledge about the agricultural sector. It is a boon to the economy and to the students that we have these excellent facilities in our communities, not to mention the college that is under the Federation of Saskatchewan Indian Nations that serves

our aboriginal peoples. I think it is a college of excellence, with very little competition around the world for our aboriginal peoples.

The immediate cause of my concern is the continuing reliance upon partnership arrangements in funding research and related activities. Clearly, there is an advantage in leveraging government monies by enlisting private sector partners who are able to supplement the limited governmental resources. This advantage should be pursued. The difficulty, however, is that there is outstanding research capability in many of our institutions located in regions where private sector partners may not be readily available. If such partners with deep pockets become a prerequisite for accessing grants from the central funding agencies, or the Canadian Foundation for Innovation, then research activities will become increasingly concentrated in a small number of relatively large institutions. Inevitably, even more of our most able faculty will migrate to these institutions, and this will compromise the ability of Canadians to obtain an excellent education in virtually any of our colleges and universities.

Honourable senators, the first recommendation of the final report of the special committee was specifically designed to minimize such problems, and I would refer senators to our recommendation. I am confident that honourable senators will agree that our advice at that time is still excellent advice.

My final brief observation concerns the impact of fiscal retrenchment upon the enrolment of foreign or visa students. As the fiscal pressure on our colleges and universities has increased, many have responded by instituting policies of differential tuition for visa students, in some cases adopting a policy of full cost recovery. Whatever the merits of such policies — and I question them — they impinge with particular severity upon students from the Third World and developing nations who are unable to afford these higher fees. To the extent that they can no longer attend colleges and universities in this country, the educational experience we provide our own students is significantly impoverished. Moreover, we forfeit the economic opportunities that result when visa students are returned to their own countries and quickly rise, as many do, to positions of influence. They are certainly less likely to direct economic activity to a country where they have not studied than to one where they have. Both humanitarian and economic concerns, therefore, caution against a too-short-sighted emphasis on cost recovery.

I wish to thank all honourable senators who continue to contribute to post-secondary education, and I believe, as one who has great involvement with the university sector, that it is not going unnoticed. The Senate's role in furthering the concerns of post-secondary education is one of our points of excellence, and we hope that, in turn, we create more excellence for students in Canada.

On motion of Senator Kinsella, debate adjourned.

BUSINESS OF THE SENATE**Hon. Dan Hays (Deputy Leader of the Government):**

Honourable senators, I request agreement of the Senate that all remaining matters on our *Order Paper and Notice Paper* stand in their place, those that we have not dealt with, and that we move to the adjournment motion.

The Hon. the Speaker: Is it agreed, honourable senators, that all remaining orders stand in their place?

Hon. Senators: Agreed.

The Senate adjourned until Tuesday, June 27, 2000, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (2nd Session, 36th Parliament)
THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (2nd Session, 36th Parliament)
 Thursday, June 22, 2000

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	0	99/12/16		
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs	99/12/16	2	00/02/09		
S-17	An Act respecting marine liability, and to validate certain by-laws and regulations	00/03/02	00/04/04	Transport and Communications	00/05/09	2	00/05/17		
S-18	An Act to amend the National Defence Act (non-deployment of persons under the age of eighteen years to theatres of hostilities)	00/03/21	00/04/04	Foreign Affairs	00/05/04	0	00/05/16		
S-19	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	00/03/21	00/04/06	Banking, Trade and Commerce					
S-22	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	00/05/11	00/05/18	Legal and Constitutional Affairs					
S-25	An Act to amend the Defence Production Act	00/06/14							
S-26	An Act to repeal An Act to incorporate the Western Canada Telephone Company	00/06/15							

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act respecting the election of members to the House of Commons, repealing other Acts relating to elections and making consequential amendments to other Acts	00/02/29	00/03/28	Legal and Constitutional Affairs	00/04/13	0	00/05/31	00/05/31	9/00

C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, and the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	0	99/12/14	99/12/16	35/99
C-5	An Act to establish the Canadian Tourism Commission	00/06/14							
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02	99/12/06	Subject matter 99/11/24 Social Affairs, Science and Technology	99/12/06 99/12/07	2	99/12/09	00/04/13	5/00
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4	99/12/08	00/03/30	1/00
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14	00/02/10	Aboriginal Peoples	00/03/29	0	00/04/13	00/04/13	7/00
C-10	An Act to amend the Municipal Grants Act	00/03/28	00/04/10	National Finance	00/05/04	0	00/05/09	00/05/31	8/00
C-11	An Act to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts	00/06/08	00/06/15	Energy, the Environment and Natural Resources	00/06/22	0			
C-12	An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts	00/06/01 (withdrawn 00/06/13) 00/06/13 (reintro- duced)	00/06/15	Social Affairs, Science and Technology	00/06/22	0	00/06/22		
C-13	An Act to establish the Canadian Institutes of Health Research, to repeal the Medical Research Council Act and to make consequential amendments to other Acts	00/03/30	00/04/04	Social Affairs, Science and Technology	00/04/06	0	00/04/10	00/04/13	6/00
C-16	An Act respecting Canadian citizenship	00/05/31							
C-18	An Act to amend the Criminal Code (impaired driving causing death and other matters)	00/06/19	00/06/22	Legal and Constitutional Affairs					
C-19	An Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts	00/06/14	00/06/22	Foreign Affairs					
C-20	An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference	00/03/21	00/05/18	Special Committee of the Senate on Bill C-20	00/06/19	0			

C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14	99/12/15	-	-	99/12/16	99/12/16	36/99
C-22	An Act to facilitate combatting the laundering of proceeds of crime, to establish the Financial Transactions and Reports Analysis Centre of Canada and to amend and repeal certain Acts in consequence	00/05/09 (withdrawn 00/05/11)	00/05/17	Legal and Constitutional Affairs (withdrawn 00/05/18)	00/06/15	0	00/06/22	
		00/05/11 (reintro- duced)		Banking, Trade and Commerce (00/05/18)				
C-23	An Act to modernize the Statutes of Canada in relation to benefits and obligations	00/04/12	00/05/09	Legal and Constitutional Affairs	00/06/08	0	00/06/14	
C-24	An Act to amend the Excise Tax Act, a related Act, the Bankruptcy and Insolvency Act, the Budget Implementation Act, 1997, the Budget Implementation Act, 1998, the Budget Implementation Act, 1999, the Canada Pension Plan, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Act, the Income Tax Act, the Tax Court of Canada Act and the Unemployment Insurance Act	00/06/14						
C-25	An Act to amend the Income Tax Act, the Excise Tax Act and the Budget Implementation Act, 1999	00/06/08	00/06/14	Banking, Trade and Commerce	00/06/22	0	00/06/22	
C-26	An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence	00/05/16	00/05/30	Transport and Communications	00/06/15	0	00/06/20	
C-27	An Act respecting the national parks of Canada	00/06/14						
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	00/03/23	00/03/28	-	-	-	00/03/29	3/00
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	00/03/23	00/03/28	-	-	-	00/03/29	4/00
C-32	An Act to implement certain provisions of the budget tabled in Parliament on February 28, 2000	00/06/07	00/06/13	National Finance	00/06/15	0	00/06/19	
C-34	An Act to amend the Canada Transportation Act	00/06/15	00/06/19	Agriculture and Forestry	00/06/21	0	00/06/22	
C-37	An Act to amend the Parliament of Canada Act and the Members of Parliament Retiring Allowances Act	00/06/15						
C-42	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	00/06/19	00/06/22	-	-	-	00/06/22	

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-202	An Act to amend the Criminal Code (flight)	00/02/08	00/02/22	Legal and Constitutional Affairs	00/03/02	0	00/03/21	00/03/30	2/00
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02	00/05/18	Legal and Constitutional Affairs					
C-276	An Act to amend the Competition Act (negative option marketing)	00/05/18	00/06/15	Banking, Trade and Commerce					
C-445	An Act to change the name of the electoral district of Rimouski—Mitis	00/05/09	00/06/13	Legal and Constitutional Affairs	00/06/22	0	00/06/22		
C-473	An Act to change the names of certain electoral districts	00/04/10	00/06/13	Legal and Constitutional Affairs	00/06/22	0	00/06/22		

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13	00/02/23	Legal and Constitutional Affairs					
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin) (Dropped from Order Paper pursuant to Rule 27(3) 00/05/11)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02	00/02/22	Social Affairs, Science and Technology	00/06/22	0			
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02	00/02/22	Privileges, Standing Rules and Orders					
S-8	An Act to amend the Immigration Act (Sen. Ghitter) (Dropped from Order Paper pursuant to Rule 27(3) 00/05/04)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03	00/05/04	Legal and Constitutional Affairs					

S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault, P.C.) <i>(Dropped from Order Paper pursuant to Rule 27(3) 00/02/08)</i> <i>(Restored to Order Paper 00/02/23)</i>	99/11/04	
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18	
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02	00/02/22 National Finance
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16	
S-16	An Act respecting Sir John A. Macdonald Day (Sen. Grimard)	00/02/22	
S-20	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	00/04/05	00/05/09 Energy, the Environment and Natural Resources
S-21	An Act to protect heritage lighthouses (Sen. Forrestall)	00/04/12	00/06/01 Fisheries
S-23	An Act respecting Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	00/06/06	
S-24	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	00/06/13	
S-27	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	00/06/15	

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	-	-	-	99/12/08	00/03/30	
S-28	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Carstairs)	00/06/22							

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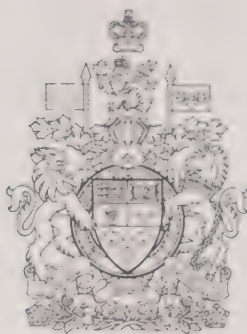
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• VOLUME 138

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OFFICIAL REPORT
(HANSARD)

Tuesday, June 27, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Tuesday, June 27, 2000

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

THE HONOURABLE
LOUIS J. ROBICHAUD, P.C., Q.C., C.C.

FORTIETH ANNIVERSARY OF ELECTION
AS PREMIER OF NEW BRUNSWICK

Hon. Rose-Marie Losier-Cool: Honourable senators, there are some events that make such an impact on our lives that we can still remember the circumstances surrounding them. We probably recall what we were doing when we learned of the death of President Kennedy or of Lady Diana.

On June 27 1960, I recall that I was rocking a one-month old baby to sleep when I heard that Louis J. Robichaud had been elected Premier of New Brunswick. I applauded his victory and savoured it, although I did not attend the celebrations. History has demonstrated that the people of New Brunswick were right to have elected this young Acadian, aged 35 at the time, as premier.

What was Louis J. Robichaud's vision? It was a vision of social justice based on the principle of equity and equality, one that is constantly challenged still today. Premier Robichaud's program of "Equal opportunities for all" guaranteed all of the province's children the same quality of education from country schoolhouses right up to university. There was some opposition to this program, even going as far as threats on the lives of the premier and his family.

The program was a pivotal point in provincial history. It made a significant contribution to the self-actualization of the Acadians. This and his many other accomplishments during his premiership of New Brunswick and during his life in politics made Ti-Louis, as we fondly called him, our idol.

On behalf of my colleagues, particularly Senators Eymard Corbin and Fernand Robichaud, and of all the francophones of New Brunswick and even of the Atlantic region as a whole, I thank you, Senator Louis Robichaud! Thanks to you, a dialogue between anglophones and francophones was begun, and my grandchildren now reap the benefits.

Hon. Pierre De Bané: Honourable senators, it was 40 years ago today that the youngest premier in Canada and the first

Acadian to become Premier of New Brunswick was elected. Last week, Senator Rivest referred to the Quiet Revolution, whose architect was Jean Lesage. Today, it is important to mention the equally significant revolution undertaken in New Brunswick by Louis J. Robichaud, who was elected on June 27, 1960, five days after Jean Lesage's election. Mr. Robichaud was Premier of New Brunswick for 10 years, until 1970.

I want stress how the work undertaken by Mr. Robichaud in his province benefitted the cause of social justice and equity. At the time, Mr. Robichaud was barely 34 years old. Allow me to quote the 1987 edition of *The Canadian Encyclopedia*:

— he introduced far-reaching social reforms through the centralizing Programme of Equal Opportunity. His Liberal government modernized liquor laws, abolished the Hospital Premium Tax, passed an Official Languages Act, established U de Moncton, increased Acadian administrative influence, and encouraged the mining and forest industries.

Acadians, among others, are deeply indebted to him. Indeed, it was under his administration that the University of Moncton, the only Acadian university in Canada, was created in 1963. It was also under his administration that, in 1969, New Brunswick became officially bilingual — the one and only province to have that status to this day — and that Acadians began to truly have access to education and services in French, and also to better jobs.

Maurice Basque, a journalist for *Le Devoir*, wrote the following last summer during the Francophone Summit, which was held in Moncton:

It is in New Brunswick's Acadia that Acadians have made the greatest legal, political and socio-economic gains. From 1960 to 1970, the government of Premier Louis J. Robichaud promoted a true Acadian quiet revolution in New Brunswick... That same government imposed a series of major socio-economic reforms that have greatly contributed to the development of Acadian regions in that province.

The Robichaud administration was responsible for introducing the equal opportunity program, a program designed to ensure a fairer distribution of opportunities and resources between the poorer northern part of the province with its francophone, for example, Acadian, majority, and the more industrialized, richer and majority Anglophone southern part, and between rural and urban regions as well. In fact, Arthur T. Doyle, a well-known analyst on the political scene in New Brunswick had this to say last fall:

More than any other premier, Louis J. Robichaud introduced a significant change in the role of the provincial government with his equal opportunity program. He also undertook to centralize the management of hospitals, health care, education, income assistance and the administration of justice. These were radical changes, never before seen in Canada, which were a model for other provinces and certain American states.

[English]

I am sure that I speak for all corners of this house in paying tribute to a great Canadian, our colleague Senator Robichaud.

Hon. Senators: Hear, hear!

[Translation]

Hon. Marie-P. Poulin: Honourable senators, I congratulate Senator Losier-Cool, from New Brunswick, and Senator De Bané, from Quebec, on their tributes to Senator Louis J. Robichaud. I join with them in offering my personal congratulations to our friend and colleague, as well as those of my parents, Alphonse and Lucille Charette, and of all Franco-Ontarians and everyone who speaks French in Ontario.

Imagine, honourable senators, what the election of Louis Robichaud, in 1960, as head of the Government of New Brunswick meant to all Franco-Ontarians. Think of the trust, the vision, the confidence this new leader of New Brunswick inspired in us. He gave us the opportunity to show our pride as French-Canadians, something we still do today, in French, with our children and our grandchildren.

[English]

QUESTION OF PRIVILEGE

NOTICE

The Hon. the Speaker: Honourable senators, before I recognize other senators under Senators' Statements, you have all received from the Clerk of the Senate notice of a question of privilege. This notice was submitted to the clerk at 11:15 a.m. on this day, June 27. Rule 43(3) of the *Rules of the Senate* provides:

Except as provided in section (4) below, a Senator wishing to raise a question of privilege shall, at least three hours before the Senate meets for the transaction of business, give a written notice of such question to the Clerk of the Senate.

The written notice was received, but not within the time provided by the rule. I leave that with honourable senators for your information regarding later proceedings.

[Senator De Bané]

LEGAL AND CONSTITUTIONAL AFFAIRS

LETTER OF THANKS TO COMMITTEE FROM NASKAPI NATION OF KAWAWACHIKAMACH

Hon. Lorna Milne: Honourable senators, we so seldom receive praise for or even recognition of the work we do in this place. However, when I received a letter two weeks ago that did just that, the Standing Senate Committee on Legal and Constitutional Affairs decided unanimously that I should share it with the entire Senate.

By way of background, during the hearings of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-23, members heard from representatives of the Naskapi Nation of Kawawachikamach. Although the witnesses were generally in favour of the principle of Bill C-23, they addressed some serious concerns about its impact on their treaty rights, as well as the negotiation process that had been followed to arrive at the relevant parts of the bill which affect them the most.

The committee took the concerns of the Cree-Naskapi very seriously and was able to assist them in obtaining the appropriate written assurances from Ministers Nault and McLellan. As a result, on June 19, Chief Philip Einish of the Cree-Naskapi wrote to me, as chair of the committee, as follows:

Dear Senator Milne,

On behalf of the Council and members of the Naskapi Nation of Kawawachikamach, I would like to express my sincere thanks to you and to the members of the Committee you chair for the good services rendered to the Naskapi Nation in connection with Bill C-23.

Prior to proceeding before our Committee, we felt that our voices had fallen on deaf ears. From my reading of the transcripts of the proceedings of your Committee and from the reports of our representatives, it is more than clear that our concerns were listened to and quickly understood by the members of your Committee, and that your Committee played the key role in obtaining for us the commitment from the Government that we had been seeking from the outset for the protection of treaty rights.

The letter is signed, "In Peace and Friendship, Chief Philip Einish."

Honourable senators, I wanted to put this letter on the Senate record to congratulate all members of the Standing Senate Committee on Legal and Constitutional Affairs for their excellent ongoing work, as well as to highlight the good work accomplished by the Senate every day.

• (1420)

ROUTINE PROCEEDINGS

CRIMES AGAINST HUMANITY AND WAR CRIMES BILL

REPORT OF COMMITTEE

Hon. Peter A. Stollery, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Tuesday, June 27, 2000

The Standing Senate Committee on Foreign Affairs has the honour to present its

TENTH REPORT

Your Committee, to which was referred Bill C-19, An Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts, has examined the said Bill in obedience to its Order of Reference dated June 22, 2000, and now reports the same without amendment.

However, your committee regrets that it did not have sufficient time to give the bill the full attention that the committee would have liked. Consequently, your committee recommends that an ongoing study be undertaken by a committee of the Senate of issues and concerns arising from the bill, as well as evolving issues pertaining to the coming into force of the Statute of Rome and the establishment of the International Criminal Court. Your committee recommends that this study be completed within three years.

Respectfully submitted,

PETER STOLLERY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Stollery, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

NATIONAL HORSE OF CANADA BILL

FIRST READING

Hon. Lowell Murray presented Bill S-29, to provide for the recognition of the *Canadien* Horse as the national horse of Canada.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Murray, bill placed on the Orders of the Day for second reading two days hence.

CONSTITUTIONAL ROLE OF SENATE

NOTICE OF MOTION

Hon. Tommy Banks: Honourable senators, on behalf of Senator Taylor, I give notice that tomorrow, Wednesday, June 28, 2000, Senator Taylor will move:

That the Senate of Canada views with grave concern the increasingly frequent practice of the House of Commons to debate and pass legislation which ignores the constitutional role of the Senate, the rights of our aboriginal peoples and official minority language groups;

That the Senate will continue to maintain its legitimate constitutional status by amending any bill that fails to recognize the constitutional roles enjoyed by both Houses of Parliament; and

That a message be sent to the House of Commons to acquaint that House accordingly.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lorna Milne: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit on Wednesday, June 28, 2000 at 3:30 in the afternoon, even though the Senate may then be sitting, for the purpose of receiving evidence related to its study of Bill C-18, to amend the Criminal Code (impaired driving causing death and other matters), and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Explain!

Senator Milne: Honourable senators, I have been given to understand that due to the pressing nature and long list of the business still before the Senate this week, the Senate may indeed sit late tomorrow afternoon. If we are to get this bill through before the summer recess, we will need to hear witnesses tomorrow afternoon as scheduled.

Senator Kinsella: Honourable senators, could the Chair of the committee tell us whether the minister is involved in the hearings tomorrow?

Senator Milne: At this point, the minister is not involved in the hearings tomorrow. We have been trying to make arrangements, but we may not be able to do so.

Senator Cools: What a disappointment.

Senator Kinsella: May we hear who are the witnesses?

Senator Milne: Honourable senators, at this point, the witnesses from the Criminal Lawyers Association, the Canadian Bar Association and the Barreau du Québec have all been approached but have not yet answered as to whether they will appear.

We will be hearing from Mothers Against Drunk Driving; the Canadian Police Association; Mr. Wayne Jeffery, who is with the RCMP in British Columbia and a member of the Drugs and Driving Committee of the Canadian Society of Forensic Science; and either Mr. Roger Culter or Mr. Andrejs Berzins, both Crown counsel who testified during the impaired driving study of the House of Commons Justice Committee. They were in favour, I believe, of expanding police powers for drug testing. That is who we have lined up at present.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

• (1430)

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before I proceed to Question Period, I should like to introduce to you the pages from the House of Commons who will be here this week on our exchange program.

Annie McKendy is studying visual arts and psychology at the Faculty of Arts at the University of Ottawa. She is from Montreal, Quebec.

[Translation]

Jean-François Laberge is from Orléans, Ontario, and he is studying political science at the Faculty of Social Sciences at the University of Ottawa.

[English]

Laura Floyd is studying communications at the Faculty of Arts at the University of Ottawa. Laura is from Brentwood Bay, British Columbia.

For those of you who do not know Brentwood Bay, I encourage you to visit. It is a lovely spot.

I welcome our three visiting pages on behalf of all honourable senators.

[Translation]

We hope that your stay with us will be interesting and useful.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

SEA KING HELICOPTERS—PROGRAM TO UPGRADE— REQUEST TO SPEED UP PROCESS

Hon. J. Michael Forrestall: Honourable senators, I have some serious questions for the Leader of the Government in the Senate. I must preface them with some comments on the impression left by the actions of the Minister of National Defence when he visited the military exercise in the Pacific. We all know about the loss of the Sea King. Thank God, the aircraft loss was without harm to the crew. However, it raises serious concerns when we learn that Minister Eggleton preferred the services of the United States helicopter, rather than our own, to ferry him about.

As well in preface to my question, I wish to say that we welcome the Prime Minister's statement in Europe. However, I reject the spin of "unfounded" being placed upon the possibility of a directed contract to Aerospatiale with respect to the Cougar aircraft. That is very important. What bothered me most about that comment was the use of the word "soon." I become irritated when I hear the government using the word "soon" because I believe that you will not go through with it.

As the minister knows, number 442 sits at the bottom of the Pacific Ocean, probably in water too deep for recovery. There is little doubt as to what happened. A faulty gearbox of the 21000 series caused the crash.

Honourable senators, 441 and 442 are simply numbers assigned to aircraft when they are built. It was just a few short weeks ago that Talon 441, with the same 21000 series gearbox, barely made it to Shut In Island, off the coast of Nova Scotia. It is Sea King 442 that is sitting at the bottom of the Pacific Ocean. If that does not send a message, I do not know what does.

I am told, honourable senators, that in the fleet of 29 Sea Kings, only three have been upgraded to the 24000 series. These are not new gearboxes or motors, but are rebuilt ones. However, they do have some credible life expectancy, quite unlike, as we have now seen, the 21000 series.

Will the minister go to his colleague, the Minister of National Defence, his colleagues from cabinet and the Prime Minister and request two things? Speed up, please, the replacement of these faulty gearboxes, because it is critically important. If that cannot be done, please restrict the use of these aircraft indefinitely, until such time as this work can be done, or there is a replacement either by way of a directed contract or otherwise.

Incidentally, if it is to be a directed contract, why not direct the contract to the assembly line that is already in place building our new search and rescue helicopters, the Cormorant. That production line is up and running. The orders and specifications are already in place.

Could the Leader of the Government in the Senate give some response to these very serious matters?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, anticipated that there would be a question with respect to the Sea Kings today, having read that very serious news over the weekend. Hopefully, I shall address all of the issues that the honourable senator raised. In the event that I do not, I am sure he will follow up.

With respect to the precise nature of the procurement process, I am not in any position to give him any specifics at this stage. I was pleased, as he was, that the Prime Minister had indicated that the process would move forward this summer, if I recall correctly.

The procurement of new aircraft is obviously encouraging news to the people in the Armed Forces, and to the honourable senator who has raised this issue quite a number of times, certainly while I have been here and no doubt before my arrival.

• (1440)

At this point, I cannot conclude precisely the nature of the problem with respect to the Sea King that was lost. There will be the normal investigation, which I understand is already underway, and a report will be made giving us a very precise idea of the problem.

In the past, we spoke of a \$50-million program to upgrade certain equipment on the Sea King fleet. I do not have that information in front of me now, but at that time I gave the amounts for each particular part of the program, including the

gear box upgrade, how far along it had progressed, and the anticipated time of completion. I or my staff will check to see that that information is all on the record there. If it is not, I can retrieve it and share it with the honourable senator and anyone who is interested.

Senator Lynch-Staunton: Did you fly on the one that crashed?

Senator Boudreau: The Honourable Leader of the Opposition asks me if I flew on the one that crashed. I am not certain, but I must say that the thought had occurred to me.

Honourable senators, I shall check to see if the information is already on the record, and if it is not, I shall produce it. I shall also pass along to the Minister of National Defence the senator's urging to complete the \$50-million upgrade program as quickly as possible and to limit the assignments for those particular pieces of equipment that have not completed the upgrade.

Senator Forrestall: I can share the minister's lack of specific knowledge as to what happened because the aircraft is on the bottom of the ocean. The pilot and the crew were safely plucked from the Pacific Ocean. They were on board when the plane landed. There is a process that tells the pilot when he is having transmission problems. A signal or an alarm tells him to get on the ground quickly because soon he will lose power. The crew reported that this is what happened. I expect this information will trickle down sooner or later.

In all likelihood, it was a transmission problem. There were all of the attendant indications of gear box and transmission failure.

Does the minister recognize that two of these situations in a row, in just a matter of a few weeks, are sufficient to restrict this equipment until all of these upgrades have been completed? One cannot gamble with lives. Now is the time to stop being polite. We must call a spade a spade.

The four very senior men who taught me the difference between "pan, pan, pan" and "mayday, mayday, mayday" are maybe now, in their wisdom, considering issuing their own mayday. Should the government not say, "Yes, we shall restrict these aircraft"? What does it matter? We shall have to retrain pilots in any event. There is likely not enough flying time to maintain proficiency. We do not have enough aircraft or equipment. What we do have is not safe. Is it not time ground these aircraft for the sake of the lives of these men and women?

Senator Boudreau: Honourable senators, I do not feel comfortable presuming at this stage to know the cause of the latest incident, but I do know that the \$50-million upgrade is proceeding.

I shall convey the senator's sentiments that all of the units be grounded. Once all of the evidence is in, I believe that an operational decision will be made by senior military personnel. I would hope that the \$50-million upgrade program would proceed as quickly as possible.

[Translation]

FOREIGN AFFAIRS

SUMMIT OF THE AMERICAS 2000-01—
INVITATION TO PRESIDENT OF CUBA

Hon. Marcel Prud'homme: Honourable senators, some time ago, I asked the minister whether the Government of Canada was contemplating taking the initiative of recognizing North Korea. I have not yet had a response and I would like to have one shortly.

My question of today relates to a major event. As we know, the Summit of the Americas will be held in the historic French city of Quebec in the spring of 2001. I understand, and it is regrettable if true, that the host government, that is Canada, has not yet seen fit to extend an invitation to the President of Cuba, Fidel Castro. Would the minister be so kind as to indicate to his colleague that a number of senators are certainly of the opinion that President Castro should be invited to this very important summit and that it would be unthinkable for him not to be invited? It is the responsibility of the host country to issue invitations. Since Canada is that country, it is up to Canada to issue the invitation to President Castro.

There is a link between my two questions, since they both relate to international policy. When are we going to cease following others and when are we going instead to take the initiative of recognizing North Korea — and on this I would appreciate a response — and, second, could the minister possibly pass on this urgent message relating to this invitation to the Summit of the Americas to be held in Quebec City in 2001, a summit for which the Prime Minister of Canada will be the official host?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I shall transmit that request and, indeed, the question that accompanies it with respect to the attendance of President Castro. I extend apologies for the outstanding question with respect to North Korea, and I undertake to do my very best to have both of those answers back before we break at the end of the day on Thursday.

This past couple of weeks have proven more difficult than usual to contact the ministers involved, resulting in some delay. I shall make a special effort to answer those questions before we adjourn.

THE SENATE

COMMENTS BY PRIME MINISTER ON RECENT APPOINTMENTS

Hon. Anne C. Cools: Honourable senators, I have a question for the Leader of the Government in the Senate in respect of an

article in the *Ottawa Citizen* on Saturday, June 24, 2000, headlined "Chrétien's Senate oldest in 30 years, poll finds: PM accused of 'seat warming.'" The Prime Minister is quoted in this article as saying:

What I like about it is these people don't come here to make a career of it.

Could the Leader of the Government in the Senate tell us what the Prime Minister meant by that and whether he was speaking for the Honourable Leader of the Government in the Senate?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the Honourable Senator Cools may have an opportunity to ask that question of the Prime Minister directly. If she does have such an opportunity, I would suggest that she do so.

I do not interpret those kinds of comments, whether they are made by the Prime Minister or the Deputy Leader of the Government in the Senate or, indeed, the Leader or Deputy Leader of the Opposition. I leave it to the individuals involved to explain or expand upon such comments.

• (1450)

Hon. Gerald J. Comeau: Honourable senators, given that this side has less of an opportunity to ask questions of the Prime Minister, I wonder if the Leader of the Government would ask the Prime Minister on our behalf if he includes senators from this side of the house as well.

Senator Boudreau: I am not sure I understand the question, honourable senators.

Senator Comeau: Honourable senators may recall that the Prime Minister indicated that the new senators would be more diligent and would take their work more seriously than those senators who have been here for a longer time and who see it as a career move, which I assume would be the case of the Leader of the Government. I wonder if the Prime Minister views the work of the senators on this side of the house as not being as constructive as that of older senators on the government side of the house.

Senator Boudreau: Honourable senators, if the question is whether the Prime Minister views the work of senators on the opposition side as somewhat less constructive than that of senators on the government side, I could take a guess at that one. I am speculating somewhat here, and honourable senators will forgive me if I do not purport to explain or expand upon such a comment, but I think the Prime Minister was simply making the point that senators coming to this place later on in their careers can still make a valuable contribution. That point, I think, was very well made.

[Translation]

HERITAGE

QUEBEC—ALLOCATION OF FUNDS FOR CANADA DAY CELEBRATIONS

Hon. Jean-Claude Rivest: Honourable senators, this July 1, the Government of Canada will be spending close to 75 per cent of Heritage Canada's Canada Day budget on Quebec. Could the Leader of the Government in the Senate tell us what the justification of this expenditure is? This situation is extremely unfair to the other provinces.

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not familiar with the details as to where the funds have been committed or indeed what the rationale for those decisions was, but I shall pass along the honourable senator's question.

CLARITY BILL

ALLEGED COMMENTS BY CHAIR OF SPECIAL SENATE COMMITTEE IN NEWS ARTICLE

Hon. Anne C. Cools: Honourable senators, I have a question for Senator Fraser as past chairman of the former special committee. I am referring to an article in the *Ottawa Citizen*.

The Hon. the Speaker: Honourable Senator Cools, that committee has now reported and thus no longer exists, so far as I know.

Senator Lynch-Staunton: I disagree. It does so.

The Hon. the Speaker: I regret, therefore, that questions cannot be addressed to the former Chair.

Senator Cools: The former Chair, the Honourable Senator Fraser, is still available to answer some questions for us. I am quite aware that the committee is no longer functioning. As senators will recall, I had very strong feelings about the formation of that committee and I thought my —

The Hon. the Speaker: Honourable Senator Cools, you might ask questions of the Leader of the Government in the Senate on the matter.

Senator Cools: Honourable senators, when I asked the leader a question about the Prime Minister, he referred me to the Prime Minister, so I thought if I asked the leader a question with respect to Senator Fraser, he would refer me directly to Senator Fraser. Therefore, I took the option of going to Senator Fraser directly. Can I put a question to Senator Fraser or not?

The Hon. the Speaker: Honourable Senator Cools, Senator Fraser is not able to answer the question because the committee no longer exists and therefore she is no longer chairman of the committee.

Senator Cools: Then I shall place my question before the leader.

Honourable senators, the question relates to an article in the *Ottawa Citizen* on Friday, June 16, 2000, entitled, "'Silly' clarity bill unconstitutional, ex-justice says. Estey says controversial legislation is vulnerable to court challenges."

In the body of the article, there is a statement not in quotations but referring to some conversation with Senator Joan Fraser as follows:

Ms. Fraser told him that the Senate is being left out in the bill because of time constraints during a referendum process. She cited previous holdups such as during the passage of the GST and the free trade agreement, which caused the government of the day problems.

My recollection of those particular Senate "holdups" are that they were largely engineered and driven by Liberal senators. I wonder if the Leader of the Government in the Senate can tell me if he agrees with what Senator Fraser had to say in the newspaper article?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I have been in public life since 1987, and I have learned never to comment on quotations in newspapers, and that is a practice that I propose to continue.

NATIONAL DEFENCE

EVICTON OF MILITARY FAMILIES FROM MILITARY HOUSING TO SHELTER HOMELESS

Hon. J. Michael Forrestall: Honourable senators, on a separate matter, I should like to raise with the Leader of the Government in the Senate the plight being faced by military families in the PMQs in Area 2 of Rockcliffe Base. They are to be evicted as of July 31, 2001. I am told they got their notice after dark on a Friday night a week ago, so they could not call anyone immediately. These military families are being put out on the street in what is a seller's market in Ottawa.

The reason, I am told, is a memorandum of understanding that has been signed between the Department of National Defence and another government department to house the homeless. It is very clear that the government either has utter contempt for military families, wants revenge for the embarrassment they got from the Quality of Life Study and is taking it out on military families, or is showing that they have no interest whatsoever in remaining in the PMQ business. This is an outrage.

Can the minister confirm that this is the case, that a memorandum of understanding has in fact been signed, that military families are being evicted to house the homeless, and that this will take place in major bases that were affected by closure or cutback? If that is the case, can he tell us what is in the future for the married and officers' PMQs in Willow Park, Windsor Park, Shannon Park and Shearwater?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I shall be happy to get information for the honourable senator on that very specific question. I shall attempt to have an answer for him before the end of the week.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I request leave to make a statement about Senate business.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Hays: Honourable senators, when I move the adjournment motion at the end of the Notice Paper today, I shall move to adjourn to 1:30 tomorrow, and will not include an order that the house rise at 3:30. Rather, thereafter we shall have a normal day, because we have much business to do, in particular a number of speeches on the order dealing with Bill C-20.

I shall also rise before we reach Item No. 1, dealing with Bill C-20, to move a motion under rule 38 of the *Rules of the Senate* in accordance with an agreement which I believe I have with Senator Kinsella, Deputy Leader of the Opposition.

For now, I should like to let honourable senators know that the order in which I intend to call government business will be Item No. 2, Bill C-11, dealing with the Cape Breton Development Corporation; Bill C-16, dealing with citizenship; following that, Item No. 6, Bill C-27, dealing with parks; and then Item No. 1, dealing with Bill C-20.

• (1500)

CAPE BRETON DEVELOPMENT CORPORATION DIVESTITURE AUTHORIZATION AND DISSOLUTION BILL

THIRD READING—DEBATE ADJOURNED

Hon. J. Bernard Boudreau (Leader of the Government) moved the third reading of Bill C-11, to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts.

He said: Honourable senators, I defer to Honourable Senator Kinsella.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, there are a number of senators who wish to speak to this bill, and I now yield to Honourable Senator Murray.

Hon. Lowell Murray: Thank you, honourable senators. I know that the Cape Breton Development Corporation is on the way out!

Honourable senators, I had hoped that Senator Buchanan, our principal spokesman on this bill, would have arrived by now. We are expecting him momentarily. I hope he will not object if I intervene at this point.

Honourable senators, it occurs to me to ask whether the courtesy that is usually extended to the first speaker on this side might be extended not to me, since I do not take intend to take much time, but to Senator Buchanan when he arrives. I shall leave that for your kind consideration.

The Hon. the Speaker: Honourable senators, Honourable Senator Murray has suggested that the extra time allowed to the first speaker after the motion should be awarded to his colleague rather than himself. Is it agreed that this be done?

Hon. Senators: Agreed.

Senator Murray: Senator Buchanan and I stated our opposition to this bill during the debate on second reading. This bill is not about the principle of privatization. Were it so, Senator Buchanan and I probably would have supported it quite cheerfully. However, this bill has Parliament delegate to the cabinet and to the board of directors of the Cape Breton Development Corporation the authority to dispose of this Crown corporation as they see fit. This, in our view, is an abdication of parliamentary responsibility. As public policy goes, this is, quite simply, wrong. I ask honourable senators to reflect on that in terms of the precedent it creates for the future.

This bill is also unfair to Cape Breton and to the people of that place. This Crown corporation was set up 33 years ago by the Parliament of the day for reasons both social and economic. It has played an important part in the social and economic life of Cape Breton during all these years. As parliamentarians, we should have seen it through. We should have reserved to ourselves, as parliamentarians, the final word on the terms and conditions of any divestiture of that Crown corporation.

The bill was approved at second reading and went to committee. I am not normally a member of the Standing Senate Committee on Energy, the Environment and Natural Resources; I was appointed a member simply for the duration of this bill. I want, therefore, to take this occasion to thank the chair, Senator Spivak, and other members of the committee for their cooperation and forbearance during our deliberations on this bill. I think there were four of us on the committee with extensive personal knowledge and experience with Cape Breton and with the Cape Breton Development Corporation. That is pre-eminently the case with Senator Buchanan, Senator Graham, Senator Boudreau and myself. It must have seemed to those honourable senators who hail from other parts of the country as if the Cape Bretoners on the committee were speaking in some kind of foreign language or code. It was extremely difficult for them to follow. Nevertheless, I appreciate their forbearance.

Some of the issues we raised — especially that of the human impact on what is being done with this Crown corporation — were matters to which a number of senators, no matter where they resided in this country, were able to relate. Senator Christensen and Senator Finnerty, who come from resource areas of the country, Senator Kelleher, who is from Sudbury, and Senator Taylor, who is a mining engineer, took a very keen interest in the proceedings and in the bill. I wish to acknowledge their interest, cooperation and, in a general way, their support for us as we tried to find our way through the bill and as we examined witnesses and discussed the issues.

At the committee, we heard from the leadership of the unions. We had testimony from Mrs. Edna Budden, Chairperson of the United Families Organization, who came here to fight for a group numbering perhaps as many as 490, she thinks, who may be left out in the cold in terms of pensions and other benefits if the most optimistic projections of the government and of management turn out to be unrealized.

I wish to focus, however, in this brief intervention, on the testimony we heard from the minister, the Honourable Ralph Goodale, and from his officials and from the management of Devco. I think it is important to understand the context for the evidence and the testimony that the minister and his officials brought. It is clear — in fact, it has been clear for some time — that they are very close to an agreement with a potential private sector purchaser. For some weeks now, Mr. Goodale has been predicting that such an agreement would be achieved during the month of June — this month. It is clearly a matter of days, not of weeks or of months, before an agreement is finalized.

It is fair to assume that the minister was fully knowledgeable and conversant with all the issues on the table in these negotiations and with the state of play. Therefore, his policy statements to the committee had added authority and credibility in terms of what we might expect in the near future. When he spoke about the type of deal that the government wants to achieve, about obtaining a long-term commitment on the part of the private sector buyer to maintain a viable coal mining industry in Cape Breton, about the desirability of having the private-sector buyer specify the number of jobs, and when he made references to 500 jobs, I think we can safely say that he understood the implications of what he was saying. I think it is clear that he knows or can see the shape of a deal in the very near future. While it might be somewhat of an exaggeration to say that I was encouraged by his testimony, let me say that I am not as apprehensive as I was before the committee deliberations began.

Honourable senators, I think we know the concern on the street in Cape Breton. The concern is that a private buyer will purchase the company, mainly in order to supply the lucrative Nova Scotia Power contract that still has 18 months remaining, and then, having bought the company, operate it for a very short time, shut it down and import coal from the United States or from some other foreign country to supply that contract.

The minister's testimony served to alleviate some of our most severe and pressing concerns on that point. I think he sees the

shape of a deal, and the shape of the deal he sees strikes me as being acceptable and beneficial — that is, if it turns out as I believe he is predicting it will.

• (1510)

Senator Buchanan and I had thought of presenting some amendments either at committee stage or at report stage. I think we could safely predict the fate of such amendments — they would have been defeated. We decided a more constructive approach, and one more helpful to the people of Cape Breton, the people to whom we are trying to be of assistance, would be to achieve a report with some recommendations incorporating some of our concerns, and to achieve unanimity on those recommendations. We did that. Again, I want to acknowledge the constructive spirit and the spirit of cooperation of our colleagues on the committee.

Honourable senators, I shall not take you through all the observations appended to the report of the committee. I simply want to highlight the fact that the committee recommends that no deal be concluded by the government unless the purchaser has demonstrated, first, that it will maximize employment of the existing workforce to the greatest extent possible and, second, that it is committed to the long-term commercial success of the Prince mine, and any other assets involved in the purchase that could serve to increase coal production in the region.

I now turn to the notorious Donkin mine. This is a mine into which the federal government put \$80 million a few years ago before they sealed the tunnel. For many people, it represents the last great hope for a future for coal mining in Cape Breton.

The committee made it clear that if the Donkin mine is to be included in the assets to be sold to the private-sector buyer, then that decision should be seen to facilitate the eventual development of that mine. If it is not included, then an effort should be made to sell the asset to another interest who would be interested in its future development.

Honourable senators, we took a close look at the problems presented to us by Mrs. Budden and the union leadership with regard to the human resources adjustment package. We as a committee have taken the position that if the prediction of 500 jobs, which was the basis of an arbitration report, is not realized, the government will have to reopen the workforce adjustment package accordingly. Quoting from the arbitration decision, we pointed out that should there be a future downsizing at the Prince mine, the only mine now in operation, then a new adjustment program would need to be put in place for these workers at that time.

Finally, while we maintain our objection to having this deal consummated by the government and the board of directors at Devco, and while we would vastly prefer that Parliament reserve to itself the final decision on these matters, we have at least stated that the committee will exercise its right to study the deal after it is done. We will examine witnesses and draw our own conclusions on the terms and conditions of any sale of the Devco assets.

I do not want to exaggerate the importance of this process. However, I believe it will have some moral and political weight, perhaps some cautionary influence when those who are responsible for any deal know that they, that is, the minister and officials, will have to come before a Senate committee and justify it.

Senator Kinsella: Honourable senators, I should like to move the adjournment of the debate in the name of Senator Buchanan for later this day.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Kinsella, for Senator Buchanan, debate adjourned.

[Translation]

CITIZENSHIP OF CANADA BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Gauthier, for the second reading of Bill C-16, respecting Canadian citizenship.

Hon. Marcel Prud'homme: Honourable senators, first I want to thank my colleagues who, by not ending the discussion last Thursday, gave me an opportunity to address Bill C-16 today. I am in more or less the same spirit today and I had promised that I would not speak for more than 15 minutes.

[English]

Therefore, I shall certainly follow my own advice. I shall not ask for more than 15 minutes. Second, I shall not take 15 minutes.

Over the course of the weekend, I read all the speeches that were made in the House of Commons. I listened attentively to the speeches made by Senators Finestone, Wilson and Andreychuk. I got in touch with many associations. As honourable senators know, I have been involved in citizenship matters for over 35 years.

I fought in the House of Commons for years for passage of a Private Member's Bill to reduce from five years to three years the period necessary to become a Canadian citizen. Eventually, I won. It was not because my bill passed; it was opposed year after year. However, one minister of immigration, because of my strong views, made it part of a bill. Therefore, I was happy, as were hundreds of thousands of Canadians.

The bill before us now seems to be very important. Honourable senators would not believe the number of people

who have wanted to appear to discuss it. When so many people want to be heard, it should ring a bell that there is something wrong. When you see the Canadian Jewish Congress, followed immediately by the Canadian Islamic Congress, and the B'Nai Brith and the Canadian Arab Federation all seeing eye to eye on the bill and saying that they want to be heard, bells should ring.

To be frank, I was surprised last week at the exchange that took place when our very good and able friend Senator Hays asked the chairman of the committee that will study the bill, "What is your program of action?" The honourable chairman said — and if I misquote I stand to be corrected — "If I would have had the bill last week, it would have passed."

What about these 24 people who insist on being heard? They insist. You cannot hear that many people in one day, let alone in three days. We are not children. We know the government has an agenda, and that is fair game. I shall not accept being pushed around by the House of Commons at the end of a session with them saying about a series of bills, "Hold your nose and pass these bills."

There are rules that govern this place. I do not accept that our very gentlemanly leaders in the Senate, Senators Boudreau and Hays, are being pushed around.

• (1520)

We all know how politics work. However, there will come a time when senators will demand to be respected. There will come a time when we should take any bill that seems to be important, and say, "Too bad, we will take our time. We will study that bill. Many Canadians wish us to look into it."

Earlier today, the chairman of the Foreign Affairs Committee tabled a bill with an addendum. The members admit saying that they are not too clear on that bill. They believe that it is not good, but have passed it with the intention of creating a committee to study it during the next three years.

Honourable senators, if the bill is not good, we should postpone it. I do not understand that we as senators should accept being treated as we are.

I was a member of the House of Commons for 30 years. I was highly respected in my district. I became a senator, and I am still highly respected in the province of Quebec. When I return to my district, those who once called me Marcel began to address me as Mr. Senator. Those who believe senators should be pushed and not respected are wrong. The point is that we refuse to take the debate to Canadians and tell them what the Senate is about. We do not need to defend the Senate.

We have a song in French, *Tout le monde veut aller au ciel, mais personne ne veut mourir*, which means that everyone wants to go to heaven, but no one wants to die.

[Translation]

The question today is more or less the same: We do not want to be treated as they want to treat us.

[English]

We must stand and say that the bill arrived too late.

I have a confidential letter that I cannot read aloud, but I could show it to honourable senators privately. It is the list of people and organizations that have requested to appear. They are among the most important people, groups and organizations in Canada.

Honourable senators, there must be something wrong somewhere in that bill. I have been in Parliament for 37 years. I have never seen a parliamentary secretary resign because the ministry for which he is the parliamentary secretary, has put forward a bill. Either the member is totally out of his mind, or he must have strong opinions on the bill. He wants to be heard. He is not the only member of the House of Commons who wants to be heard.

Mr. Gallaway resents the Senate. I would take on this type of member of Parliament any time, anywhere in Canada, on the subject of reform of the Senate. I have talked to him about the reform of the House of Commons. He voted against the bill. Eight liberals voted against this amendment. Five voted against the bill. Twenty-eight. I did my homework, refused to show up. Of those, at least 19 are opposed to the bill.

I read the speech of Senator Finestone. It is a fine speech, as always. I could debate that speech. I remember in 1947 there was an amendment to the Citizenship Act, because our passports said that we were British subjects. We were not Canadian subjects. It changed slowly. I have all my passports, and I have my father's passports. I can see the development. That is how it came about. When they say that we do not give citizenship for money, they should look at our immigration policy.

Honourable senators, I am troubled by the bill, like many people. I was afraid last week that we would send the bill to the committee, we would call a few witnesses, and the minister would be absent — like all the absent ministers for certain bills that will be sent to committee tomorrow. The minister will be absent. If the minister cannot come to defend his own bill, we should wait. The bill could wait in the other place.

The minister is not here for this bill. Another minister will not be there for the bill that you will study tomorrow. I do not know if I shall consent to this bill when it comes back. Even though I promised not to speak long, I must repeat, where is the relevancy? There are bills that should not be rushed. There is a fundamental question of principle.

I address myself now to the four newest senators. You should not accept to be pushed around for the sake of your own pride. It is a question of both pride in ourselves and pride in the institution. Tough luck if people attack the Senate. It is our duty to organize ourselves to go to the colleges and universities, and say that we are in favour of reform of the Senate and ask what they would suggest.

Honourable senators can see the relevancy of the song that says that everyone wants to go to heaven, but no one wants to

die. Everyone wants the reform of the Senate, but they want to go in different directions. We could start by explaining what the Senate is all about. It could be a different kind of Senate. I shall do my duty this summer and fall by talking about the Senate with the young people at the universities.

We need to stand up once or twice in our life to say, "Sorry, if the House of Commons wants that bill, or wants that agenda, all that they need to do is come here and be heard." They only need to say that it would be good to have this bill.

I shall finish by asking whether everyone has read the last page of Bill C-16, the oath of office? It is a very sweet oath of office.

Senator Cools: A very strange one.

Senator Prud'homme: It is a very strange oath. There was a member of Parliament who was once a refugee. He came to Canada, was saved by Canada. He became well known in the separatist movement. He became a Canadian citizen, ran for office and defeated a young man by 47 votes. He sat with the Bloc Québécois. That young man, who had been defeated, did not give up, because I had told him to never give up. On his fourth attempt, he was elected by 10,000 votes. He is Minister of Sports and Youth.

What does the oath of office mean to these people who may democratically decide that they want to secede from the country to which they made that oath? Even though a new Canadian citizen, they become separatists within less than a few months. We must have an explanation for that. I want an explanation. I was not given an explanation. It is like an afterthought. We are thrown in the door and given the oath.

• (15:30)

Some people say that perhaps the time has come to have a different kind of oath. Mr. Bryden is not known as a lightweight in the House of Commons. I read the speeches. Mr. Bryden is very concerned about the oath. He asked where that oath came from. He moved an amendment which was defeated. He wanted to know if it was important to pledge allegiance to a country, as I have pled allegiance to the Queen 16 times, I think. That is why I am a monarchist until she dies or abdicates voluntarily.

The Hon. the Speaker: Honourable Senator Prud'homme —

Senator Prud'homme: Honourable senators, I am happy to sit down if my 15 minutes are up. I have kept my word as best as possible, but I think the bill can go to committee. I suggest to Madam Chair, please do not rush. Listen to people who want to be heard.

The Hon. the Speaker: If no other honourable senators wishes to speak, it was moved by the Honourable Senator Finestone, seconded by the Honourable Senator Gauthier, that the bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Finestone, bill referred to Standing Senate Committee on Legal and Constitutional Affairs.

CAPE BRETON DEVELOPMENT CORPORATION DIVESTITURE AUTHORIZATION AND DISSOLUTION BILL

THIRD READING

On the Order:

Resuming the debate on the motion of the Honourable Boudreau, seconded by the Honourable Senator Graham, for the third reading of Bill C-11, to authorize the divestiture of the assets of, and to dissolve, the Cape Breton Development Corporation, to amend the Cape Breton Development Corporation Act and to make consequential amendments to other Acts.

Hon. John Buchanan: Honourable senators, the unfortunate thing about Bill C-11 is what we are witnessing with its passage. I am a realist and I know the bill will pass. We could have proposed dozens of amendments, but it would have just taken up the time of the committee. When you are in a position where you can hear what people say and what they plan to do and how they will vote, then it is simply a matter of counting and we can count.

I do want to say this. This bill may — and I use that word “may” — mean the end of an era in Cape Breton. Those senators who know the history of Cape Breton will understand and appreciate that the lifeblood of Cape Breton for over 100 years has come from two industries, the coal industry and the steel industry. We are now witnessing, as we have for the last few years, the downsizing of both of these industries and rightly so.

The steel industry has fluctuated from some 4,000 or 5,000 employees after the Second World War, down to 1,200, then to 800. It appears it is now down to maybe 200 or 400 employees. That way of life has been dying for a number of years but it is not gone yet. We shall continue to have a steel industry.

Today, in this bill, we are concentrating on the coal industry that has, for 100 years and more, been the major industrial employer of Cape Breton. At times in the era from 1910 right up to the 1940s, the coal mines of Cape Breton employed in excess 18,000 people. Those were the times when most coal was dug with a pick and shovel. Production was not that great, so a large

number of men was required until mechanization and new technology took over.

The coal industry has been downsizing for many years because of new production methods and the fact that the cost of mining coal in some of our collieries was getting so high that it was better to close them. That happened through the 1950s and the 1960s.

At a point in the 1960s, the Governments of Nova Scotia and Canada came to an agreement. The Government of Nova Scotia would be responsible for the steel industry and the Government of Canada would be responsible for the coal industry in the Sydney coalfields which are located in industrial Cape Breton. The province would continue to be responsible for any coal mines in Inverness County, Pictou County and Cumberland County.

The role of Devco in the 1960s was to phase out the coal industry and to provide alternate employment for those workers who would not be employed in the mines because of downsizing and close-outs. It was described in what we have referenced over the last number of weeks and months as clause 17(4)(b).

There is no question that the federal government had that responsibility when that bill was passed back in 1968, led by the Honourable Allan J. MacEachen. That is the past history. With the passage of this bill, Devco as we have known it will go into history, though maintaining the responsibility for cleanup and other such matters.

What concerns me about the bill is not the privatization. I have said before that I am not opposed to privatization. However, I am opposed to the way the federal government has gone about this privatization. They have put together a bill to sell all the assets of the Cape Breton Development Corporation — and this is important when you think of it — including the operating coal mine known as Prince. The assets also include the minable coal still in the Sydney coalfields, although there is some question as to whether the federal government has the right to sell those reserves because they are owned by the province of Nova Scotia, and were only leased to the federal government at the inception of Devco.

The assets to be sold also include the banking and lifting mechanisms and the railway used to transport coal. They include the chemical wash plant where coal from our collieries is washed down to reduce the amount of sulphur dioxide. It includes the international piers, which have the capability of handling millions of tonnes of coal, originally for export. It is important to remember that they were originally for export. Devco not only supplied all of the requirements of the Nova Scotia Power Corporation but also was able to sell hundreds of thousands of tonnes of coal offshore. The international piers looked after that, although the international piers over the years also were responsible for bringing in iron ore at first from Newfoundland and then from Labrador and the province of Quebec. The sale includes all of these assets.

• (1540)

Someone might say, "Is it not time that the federal government get out of coal mining?" I have no problem with that. "Is it not time that there be no more coal mining in Cape Breton?" The answer is no. Why is that? It is one thing for a company to mine or manufacture a product for which there is no market or the market is of such a nature or such a distance away that the company cannot make a profit or break even. Here, however, we have an extraordinary situation where there are hundreds of millions of tonnes of coal in the Sydney coalfields with a market for that coal less than a few miles away.

Honourable senators must understand that about 80 per cent of all electricity used in Nova Scotia is generated at six generating plants located on Cape Breton Island, the major ones being Lingan 1, 2, 3 and 4, and one called the Point Aconi generating plant. The Leader of the Government in the Senate is well aware of these plants, as is Senator Graham. In fact, even though it was during my time as premier of Nova Scotia that the Point Aconi plant was started, it was officially opened by a government of which the Leader of the Government in the Senate was part.

It is interesting to note that I was dumped upon from high places over the Point Aconi plant. "What a terrible thing to build this big generating plant," said certain people, including at the time the leader of the Liberal Party of Nova Scotia. "What a dastardly thing to do, to build this new generating plant." The fact was that the generating plant used the newest technology in the world to eradicate SO_2 . There was no other such plant in Canada. We built the Point Aconi generating plant. It is called a fluidized bed generating plant, where 90 per cent of SO_2 is erased. If anyone wishes to question that number, I have the figures from the federal government's own report that the Point Aconi plant reduces SO_2 by 90 per cent through fluidized bed technology.

Honourable senators, we pushed ahead. We planned the project and fired up the plant, but it was opened by the Liberals. I would have thought they would have backed away and said, "We have to finish the project now because the plant is built and it is underway, but let's be away when it is opened." However, they did not go away. They cut the ribbon.

Senator Murray: Did they invite you?

Senator Buchanan: No.

Senator Graham: He invited himself.

Senator Buchanan: They cut the ribbon.

I can tell honourable senators a story about invitations, however I shall not. That is a way of political life in Nova Scotia, of course.

The Liberals cut the ribbon for this incredible generating plant. I remember some of the comments from the people who were

opposed to the plant. As the Liberals cut the ribbon, they said, "This is the newest technology, not only in Canada but in North America and maybe the world."

That is past history, honourable senators. I am reminded of the time a big daycare centre opened in Halifax, the biggest in the city. I had been Leader of the Opposition since 1976. I was invited to sit in the front row with about 50 others at the daycare centre. When the time came for the opening, after the kids had put on a concert, Brian Flemming, who was the master of ceremonies said, "Those of you who are involved in the ribbon-cutting, please come onto the platform."

The premier, Gerry Regan, goes up, along with George Mitchell, a minister of the Crown, Walter Fitzgerald and about four others. I said, "I shall go up," and walked onto the platform.

The ribbon was stretched across the platform with a little boy holding one end and a little girl holding the other end. Then the master of ceremonies said, "Now we shall have the ribbon-cutting ceremony." Gerry walked up to the centre. They gave him the scissors. Suddenly he looked to his left and saw me standing there next to him. He said, "You are not supposed to be here." I said, "Why don't you tell them?"

The picture in the paper the next day had the caption showing Premier Gerald Regan and the Leader of the Opposition cutting the ribbon. I do not think I was ever invited to anything else.

Senator Graham: I bet your name was on the building.

Senator Buchanan: It is good thing my honourable friend mentioned that. I have 36 plaques all over the province. I have two plaques in the Glace Bay General Hospital. Inside there is a great big picture of myself and one of the other supporters. When the government changed in 1993, I wanted to show some people the big plaques in the Glace Bay General Hospital. I told them, "There is a big picture of me inside." We went in and the picture was gone. I do not know what was done with the picture. It is somewhere.

I shall return to the bill.

Honourable senators, we have all these generating plants and the fuel used is not oil, not natural gas, but coal. The market is there for coal, 3 million tonnes of coal. Immediately, someone will say "privatization," but let us make absolutely sure that the 3 million tonnes of coal required by the Nova Scotia Power Corporation is Cape Breton coal.

Someone might say that Cape Breton coal is too expensive to mine. That is true. In collieries like Phalen, Lingan 26 and those that have been closed, it was too expensive. They were six or seven miles under the ocean. However, in the Sydney coalfields, much coal can be mined economically and can be used in our generating plants.

• (1550)

One of them is called the Harbour Seam at the Sydney coalfields located at Donkin, outside Glace Bay. The tunnels are there. Senator Graham is well aware of the location of the tunnels. Back in the late 1970s, because of the quality of the coal, the coal seams were delineated with a big drill ship. Throughout the 1980s, the tunnels were drilled at a cost of \$85 million. Where is the coal? It is right at the coal face. If we were to go down the tunnels, as I did before they were flooded, we would see the coal right at the coal face.

Senator Taylor: Where else would it be?

Senator Buchanan: I am glad to hear the honourable senator ask that question because some people say miners must go a few miles out to get to the coal. That is wrong. The coal is right there. Developmental coal can be used in the fluidized bed plant very easily.

Honourable senators, I raise this matter because there are the issues of pensions, severance and continued employment. The issue of continued employment is particularly important. That is not to say that the other issues are not important because they are. What did the minister say when he was before the committee? He gave us a little encouragement, frankly. The minister stated that his goal was that there would be jobs up to a range. Did he use the words "up to"?

Senator Murray: Actually he used the word "minimum," but it mysteriously disappeared from the blues.

Senator Buchanan: Did it?

Senator Murray: Yes.

Senator Buchanan: You and I heard it.

Senator Murray: Yes.

Senator Buchanan: A minimum of 500 jobs.

Senator Graham: "Something in the range of" were the exact words.

Senator Buchanan: The minister did use the word "minimum," though. The honourable senator, as a defender of Cape Breton, as he always has been, will certainly agree with that.

Senator Graham: The minister's quote was "something in the range of up to 500."

Senator Buchanan: Well, someone, in taking it down, missed the word "minimum."

Honourable senators, let us not argue about the words. The important aspect is that the minister did talk about 500 jobs; therefore, he knows the identity of the successful bidder. One

would have to be stupid to be on that committee and not realize that the minister knows that. This is one of those great secrets of Ottawa — everyone knows the name of the bidder. I know the name of the company and I know where they are located. The union representatives know the name of the company. Many honourable senators know the name of the company. The fact is that the minister knows, so why would the minister use the phrase "500 jobs" unless there will be a minimum of 500 jobs?

Senator Robertson, from Moncton, New Brunswick, understands that. There is coal in New Brunswick.

Honourable senators, I do not think anyone should be content with just 500 jobs. The minister went further, therefore, and said something to the effect that he wanted to ensure there would be a maintenance of coal mining in Cape Breton now and for the future. That means that the Cape Breton coal industry should come close to supplying the needs of the Nova Scotia Power Corporation.

If the minister's words mean something, why is it that when the government is trying to sell the assets, they keep putting emphasis on the deepwater port? They will not export much coal. Therefore, why emphasize to a new buyer that we have this great international pier with this deepwater port for the importation of coal? Why would we import coal into Cape Breton when we have all this coal?

Honourable senators, an American company will buy the assets, and it will have access to the Nova Scotia Power Corporation contract for 3 million tonnes of coal. In other words, this American company will go around the world and broker coal from coal mines in Hampton Roads, Virginia, Michigan and Pennsylvania. They will get coal from Colombia in South America and ship it to this beautiful port in Sydney. In other words, the profits from the coal will go to this company in the U.S. No miners will be employed in Cape Breton other than those who will be employed at the Prince colliery for as long as it will last. Is that is a good deal?

Honourable senators, that is why we are not happy with the bill. We would be happy with privatization. There are groups in Nova Scotia who could develop a new mine to employ Cape Breton miners and continue the mining of coal in Prince colliery. They have expertise. I do not think anyone in this Senate would say that Cape Breton miners are not among the best in the world.

You would not say that, would you, Senator Graham?

Senator Graham: No, I would not say "among the best"; I would say they are the best.

Senator Buchanan: They are the best.

If they are the best in the world, why is it that they will not even be looked upon to mine more coal; rather it will be brought in from Colombia or from the United States? That does not make any sense. If there were no market for the coal, fine.

Let us look at another argument, honourable senators. Some have suggested that we look at the natural gas sector. They remind us that we, as politicians, have fought for years to get natural gas and that we have signed agreements with the federal government to get the maximum benefits for Nova Scotia from natural gas. They tell us that natural gas is now flowing in pipelines down to Dracut, Massachusetts, and that natural gas will be flowing into the Halifax-Dartmouth area, and probably Cape Breton. No way.

Natural gas is much higher in price than the Nova Scotia Power Corporation would be prepared to pay to maintain the cost level of electricity for Nova Scotians. I have all the figures that were put together by the consultants, which indicate that the use of natural gas will be up and the use of coal will be down. Natural gas will not replace coal in those big generating plants in Cape Breton. It probably will replace oil in the big generating plant in Dartmouth, and so it should. It might replace coal in Trenton. I am not sure of that. However, natural gas will not replace coal in Langan 1, 2, 3, 4 and Point Aconi. Those plants represent the bulk of our coal requirements for generating electricity. Therefore, natural gas is not the answer and will not happen. What does that leave? We are left with coal.

Honourable senators, the other argument is that the sulphur content of the coal in Cape Breton mines or in the new coal mine that has been trumpeted for years is too high. That is interesting, because Nesbitt Burns has clearly indicated something that we have known for years, that you and you have known for years; I am sorry, I keep pointing to the two honourable gentlemen in front of me because they are very knowledgeable about the coal industry.

• (16:00)

Nesbitt Burns has said the coal in the harbour seam at Donkin and the Sydney coal seams is excellent, volatile, thermal coal and metallurgical coal. Some people say, yes, but there is high sulphur in the roof and the floor. That is true but they have a technique — and have had for years — called selective mining. It is interesting technology. Mining engineers have told me that, by using selective mining, they can go in and take the coal from the centre of the seams, which is very low-sulphur coal. They can then take that coal to Victoria Junction, to our big wash plant, chemically wash it down to reduce the sulphur in the coal, so they end up with an excellent mix of coal that will ensure that Nova Scotia adheres to agreements that were signed on SO₂ tonnage. There is no question about it, and that is in the Nesbitt Burns report, too. It is also in reports that were put together by consultants for the United Mineworkers.

The coal is there and it is good, low-sulphur coal; the workforce is there, and yet it appears that the Government of Canada is washing its hands completely of the miners of

Cape Breton for it is having the coal brought in from the big port in Hampton Roads, Virginia. The coal will be from Virginia, Michigan, Pennsylvania, even from as far away as Colombia.

Honourable senators, that is not fair.

You might ask, "What will you do about it?" Unfortunately, there is not much we can do about it. This is democracy in reverse. The bill will be passed, the federal government will sell all the assets of Devco, and no parliamentarian will be able to say anything about it. The House of Commons will not have anything to say about it. The Senate will not have anything to say about it. It is a fait accompli, a done deal. That is ridiculous. Why would the federal government, and senators on the government side, not have agreed that the bill be put into abeyance until after the details of the sale were made known? In that way, parliamentarians could discuss and debate it to ensure we are getting the best deal for Nova Scotia, Cape Breton and Canada? That is not what is happening. The government wants the bill passed so that, behind closed doors, they can do the deal with the American company, and never mind what is happening in Cape Breton.

At least the Senate Energy Committee has agreed that, once the deal is done, the committee will have an opportunity to discuss and debate the purchase agreement. I do not know what we shall be able to do about it, but we certainly will have the right to look at the whole deal, and that is very important, although not as important as it would have been if we had put the bill in abeyance until after the deal was done.

I am still hopeful. I just spoke to a very prominent mining engineer on the weekend. The reason I did not get up here this morning is I stayed in Halifax today to discuss some aspects of this bill with others who know the coal industry: geologists, mining engineers, other engineers. I am still hopeful that something can happen.

You might say, "But this American company is the only one qualified to do it." I might be wrong, we might all be wrong, and maybe this company we are thinking about is not the company that is involved, but if it is, I can tell you they have one operating coal mine. The rest of the business they do is coal brokering. They buy and sell coal. You might say it is better to have them work the Prince colliery and to forget about the Donkin mine. I say, "No way." I was annoyed when I read in one of the reports that the Cape Breton cooperative group, including Donkin Resources Limited, lacked management. I know the people involved personally, and I know what they do politically, and God bless them, that is great. I do not think they voted for me many times, maybe never. I know they voted for my colleague across the way here from time to time, maybe always. Forget the politics of this situation; the fact is they are excellent managers. They are contractors, businessmen, accountants, engineers.

The interesting thing is that they are all Nova Scotians who have been involved in business and contracting and coal mining for years. They are all Nova Scotians. They put together a plan, and they were turfed aside. I am told they were turfed aside by the consultant. Come on; you have to be born yesterday to believe that. When you hire a consultant, the consultant is given his marching orders. When someone from the federal government says, "We had nothing to do with that, that was a decision by Devco," I say, "Come on." Devco and the federal government are one and the same. Devco is owned by the Government of Canada. You cannot get off the hook by saying, "Oh, well, the decision not to award it to the Nova Scotian and Cape Breton group was made by the consultant, we had nothing to do with that." What a lot of nonsense. The decision was made at the highest level not to have this group of Nova Scotians and Cape Bretoners involved.

Honourable senators may ask why. Well, I know why. It is because here in Ottawa they want to get out of the coal business. I say let them get out. However, they want to go further than that. They never want to have anyone from Cape Breton or Nova Scotia come after them again and say, "We need money to do this or that." They think the best thing to do is to give the whole thing to someone in the United States or offshore because they will never bother us again. That is what is happening here.

The gentlemen over here know what is happening. I shall not name names. We all know the people who are involved in the Nova Scotia group. They are very prominent people, very prominent mining engineers, very prominent geologists.

Hon. B. Alasdair Graham: Honourable senators, would the Honourable Senator Buchanan not agree that the decision as to who would be on the short list and recommended to the Devco board of directors was made by Nesbitt Burns?

Senator Buchanan: The honourable senator knows I do not agree with that. It is like the real estate agent employed by someone and asking, "Well, now, what do you think your house is worth?" "I think it is worth \$500,000." "Good, we shall put that down." Come on. As a certain friend of ours in Halifax would say, "Get with it, get with it."

Senator Kinsella: Next question.

Senator Graham: There is no point.

• (1610)

Senator Buchanan: The decision, Senator Graham, was made in the hallowed halls here in Ottawa. That is where the decision was made. It is interesting to note that the Cape Breton

cooperative group, including Donkin Resources Limited, was turfed aside early in the game. When asked why they were tossed aside, the response was that there was no management. I would not want to be the one who has to go to Pictou County in Cape Breton to tell those people that it was turfed aside because there is no management in Cape Breton and that there is no expertise there. They have only been mining coal for more than 200 years. Those in management have not been around for 200 years, but most of them have been around for upward of 50 years.

Let's just hope that we can accept the minister at his word that there will be a minimum of 500 jobs and the opportunity, as he put it, for maintaining a long-term coal industry in Cape Breton. Although those may not be his exact words, that was clearly the intent of his remarks. I understand that to mean that there will be 500 jobs, as well as more jobs in a new coal mine. There is something afoot. We are being told that Donkin Resources Limited and the Cape Breton cooperative group will now be able to negotiate with the group from the states to develop the new mine, and sell the coal from the new mine to the group from the states who, in turn, will sell it to the power corporation. Honourable senators, that will not happen. It will not happen because the group in Cape Breton — and some of them are in other parts of Nova Scotia — are Nova Scotians. They will not have the security of a power corporation contract to raise money. I have seen the figures. If they were the successful bidder and they did have the security of a contract, they could raise \$70 million from financial institutions immediately, and a further \$150 million of capital over the long term. That would be paid for mostly out of sales to whom? The Nova Scotia Power Corporation.

The biggest market for coal anywhere in Eastern Canada, outside of Ontario is what we are giving away to a group in the United States. It is not fair. Speaking as a Nova Scotian, I say that it is not fair to Cape Breton miners and their families.

Turning now to the Cape Breton miners and their families, one of the dearest women that I have met, outside of my own family, is Edna Budden. She is a very passionate person who speaks from the heart. We are not talking politics here. In fact, we should not be talking politics at all, since politics has nothing to do with what is happening here. If every member of this Senate could have been in that committee room to listen to Edna Budden, you would have immediately said, "My God! What is the federal government doing to these people?" This woman's husband spent 24 years working in the coal mines. How many in this chamber have been in a coal mine? I know quite a few have been. How would you like to have to go down hundreds of feet in the ground, miles under the ocean, and mine coal five days a week, week in, week out? That is what miners do. Some people say that it is better to get rid of the coal mines because those men should not have to do that job. That is an interesting statement. Honourable senators, that is their life! Their fathers and grandfathers worked in the mines, as did mine. That is how they live. They want to mine coal.

Some of those men who are losing their jobs do not have 25 years of work experience in the mines. I am not opposed to what Bruce Outhouse, the arbitrator, said. He is one of the best mediators around, and the Leader of the Government in the Senate knows that. He was appointed by us to conduct this arbitration. He has excellent credentials. However, he went as far as he believed he could go. All the miners who had less than 25 years of experience in the mines are gone. They will not receive a pension, but some of them will receive severance pay that will tide them over for several number of months, or a year. Those miners will not have an opportunity to be among the 500 miners who will get the jobs the minister talked about.

Honourable senators, the federal government should have done more to honour its commitment under section 17(4)(b) to create alternate employment for all of those men, or at least to treat them with dignity, respect and fairness. I do not believe they did. If the gentleman from Cape Breton who used to sit over there, the Honourable Allan J. MacEachen, were here today, he would certainly agree that those miners should be treated better than they are being treated at this time.

Honourable senators, I wish to reiterate that it appears we may be coming to the end of an era in Cape Breton. I hope not. I hope that our people will still have an opportunity to mine the coal that is needed by the power corporation to light up Nova Scotia. It will be a sad day when 1.4 million tonnes of coal will be landed at the piers in Sydney to be transported to the Lingan power plant and all of that coal is coming from either the United States or Colombia, especially when we have all the coal in the ground that we need.

Senator Comeau: What about the ships?

Senator Buchanan: I do not want to get involved in the politics of this debate at all. I do not know where those ships will be from. They may be from Canada or from somewhere else, perhaps, Liberia. They may even be registered in Panama. Frankly, I don't care. I only know that those ships should not be bringing coal into Cape Breton. I have heard it said before by other politicians — and I shall not name them — that, "There will be no coal brought in to Cape Breton from the United States or from Colombia." Unfortunately, all those politicians are either deceased or retired long ago.

Honourable senators, the end result of this is that I shall vote against this bill. My conscience would never allow me to vote for it. I could not vote for a bill that will harshly treat Cape Breton miners and Nova Scotians. As I have said before, we could have brought in amendments; but we can count.

Honourable senators, I urge you to put this bill aside for a while and to carefully look at the successful bidder. Let us do that for Edna Budden and for the United Mine Workers, a group of hard-working men. Do it for them. Let's put this bill aside and look at it later.

The Hon. the Speaker *pro tempore*: I must inform the Honourable Senator Buchanan that his speaking time has expired.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I rise to join in the third reading debate. I was particularly interested in the charming and articulated presentation of the last speaker, Senator Buchanan. Senator Buchanan and I have debated this issue since 1988. We have been on different sides of the chamber in every case. I am sure that his concern and his feelings for the Cape Breton coal miners and, indeed, the Cape Breton community, are genuine. However, he is also a pretty crafty politician. I do not know if any honourable senator has noticed that, but over the years he has been so. As a matter of fact, I think he is probably one of the finest political figures our province has produced, and we have produced some pretty sharp politicians.

• (1620)

In any event, when we get to a subject like this, honourable senators, I am tempted to believe that the senator not just today, but over the years, has dragged so many red herrings across this trail that he may single-handedly be responsible for the crisis in the fishery.

This is a very important bill for the community of Cape Breton, for the workers and their families. It is a turning point, a very important transition point. In that community, we are turning away from a history that has been in place since before 1900. It is a way of life. Sydney was a company town. There was a time when one did not join the yacht club unless the president of the steel plant gave his blessing. What you bought at the store and how much credit you received depended on how the senior executives of the mining company felt about you. This is a community which, for many years, was owned lock, stock and barrel by the private sector owners who were only concerned with the bottom line.

In 1967 — 33 years ago — the government had to step in. Indeed, the government subsequently stepped into the steel plant. We had the provincial government operating the steel plant and the federal government operating the coal mines. The Honourable Senator Buchanan played a large role, particularly with respect to the steel plant. He did so on an ongoing basis.

Senator Buchanan: Might I ask a question of the Leader of the Government in the Senate?

Senator Boudreau: Of course.

Senator Buchanan: Had my honourable friend been in the legislature back then, would he not have done the same thing?

Senator Boudreau: Absolutely.

However, the history has gone on for some considerable period of time. I would have to say that since 1967 both the steelworkers and the coal miners, along with their families, have lived in the community. When the steel and coal industries occupy such a large spot in the community, no one is immune. No one can stand apart. Thus, the entire community suffered from a level of uncertainty which I think has become more and more pronounced as we have moved through the years. It is, perhaps, one of the most cruel blows. In fact, there is an uncertainty among families who ask themselves: Will we be working next year? Will the industry survive? Will I have money to assist my son or daughter to attend university? Can I afford to pay the mortgage? Will I lose my home? Is there any other chance for an opportunity of employment? All these questions are being asked. The tension built, as did the uncertainty and the torment, which I do not think is too strong a word, in the families of many miners and steelworkers.

We have been moving toward this day for a long time. As I have said on other occasions in other places that day has now arrived, and a transition of the economy of Cape Breton is now taking place in a relatively short period of time. In other areas, the same type of transition has occurred over decades, perhaps even over generations. In our case, it is happening in a very compact way with respect to the coal industry.

We must face the turning point. We must get on with life. The people in Cape Breton, the miners, their families and everyone else, must be able to turn toward the future. As I said in my speech at second reading, Cape Bretoners cannot live their lives looking in the rear-view mirror. We must move forward. We must build a life in the new world. Does that mean there is no room for the coal industry? No, I do not believe that for a moment. However, it means that we must look for other opportunities for those individuals directly involved in the coal mines, for their families and for the entire community.

When we do that, honourable senators, we cannot forget or ignore the people who have made commitments over years and years to the industry. The government, as it should have, put before the workers a human resources package. That human resources package was not acceptable; thus, an arbitration process was agreed to. I agree entirely with Senator Buchanan's assessment of Bruce Outhouse, the arbitrator. He is probably the finest arbitrator in Nova Scotia. He was suggested by the union. They had such confidence in him that when the government agreed and the minister appointed him, there was also an agreement that his judgment would be binding on both parties. That was because the union, as well as the government, had confidence that given all the circumstances and after he reviewed the entire picture, he would come out with a fair and reasonable human resources adjustment package — and he did.

By way of an aside, the cost of that entire package will probably be in excess of \$160 million of additional monies committed by the Government of Canada.

The package basically divides the employees into three groups. There are those employees who will receive an

immediate pension. Then, presumably, they will be free to do whatever other activity they might wish to do. This pension is available to those with 25 years of service or more. Those with under 25 years of service — and I think the evidence in the committee was that there are something like 910 or 915 of them — are divided into two groups. One group, composed of approximately 500 people, will have the opportunity to gain employment in the coal industry with the new operator. I want to put an asterisk next to that comment because I wish to return to it.

These workers will come to that employment under the same collective agreement under which they are now operating and under which they have operated in the past. It will be up to their union — the union that represents them and which has represented them for decades and decades — to negotiate any changes to that collective agreement. They will be offered those jobs on the basis of seniority. That is how collective agreements work. Thus, the most senior people will have the opportunities.

Everything else being equal, the 500 most senior people of the 900 have an opportunity for employment. For example, mention was made of Edna Budden and Edna's husband. Her husband will be one of those people. If there are 500 jobs — and I am saying "if" for the moment because I shall come back to it — then under the seniority rights in the collective agreement, Edna Budden's husband will have an opportunity to have one of those jobs. It will be under the same working conditions and the same rates of pay, and so on, as are now in place.

For the 400-odd individuals who will not find employment there, there is a severance package. The details of the severance package are probably well known to most people. It is a significant severance package.

One of the uncertainties is that the miners are not sure that there will be 500 jobs. That became clear to the committee, and I think the committee took a very thoughtful approach, including honourable senators opposite. They took a very thoughtful approach on this matter and said, "If that is not the case, if that does not happen, then we think, perhaps, the government should review its human resources package." That was a comment agreed to unanimously by all committee members. If, in fact, it is true, then approximately 400 employees will have to deal with severance. As I remember some of the statistics that Edna Budden gave us, those people could potentially range in age from 27 to 44. If every senior employee takes a job, then it is likely that those 400 will be the youngest of the 900 displaced workers. That is not necessarily true, but it is highly likely.

• (1630)

Such a package is never as much as we would like it to be. However, Bruce Outhouse, the leading arbitrator in the province, thought it was reasonable. I think that he made a good judgment. The package is one that the government should stand by. The government has indicated that it will stand by the package.

Senator Buchanan spoke about all the coal that remains in the coal fields of Cape Breton. It is quite true that there are millions of tonnes of coal in those coal fields. No doubt that coal would be available to anyone.

Honourable senators, let me step back. The best guarantee for the future development of that coal is for it to be economically and environmentally sound to develop. If, for some reason, those coal fields cannot be developed in an economically and environmentally sound way, they will not be developed. We can pass numerous amendments, make numerous regulations, and give all the direction we want, but it will not happen.

However, if they can be developed in an economically viable and environmentally sound way, someone could develop them. Surely, that is the best guarantee in the long term for the future development of the coal mines.

I do not know if the coal fields can be economically viable and environmentally sound. I am not sure, but I am not a coal expert. In my view, the market will determine that at the end of the day.

At one time, as Senator Buchanan mentioned, by far the largest consumer of that coal was the Nova Scotia Power Corporation. That corporation was publicly owned. It was a provincial Crown corporation. Therefore, as a matter of public policy, it could be directed to buy Cape Breton coal, even if it was not the cheapest alternative. It could be directed to buy that coal even if cheaper alternatives were available.

A public policy decision was made to privatize the Nova Scotia Power Corporation. I do not know if Senator Buchanan was still premier at that time.

Senator Buchanan: No, I was not.

Senator Boudreau: That decision was made by the government that the honourable senator led in an election. They made the decision to privatize the corporation and, with that, they eliminated the authority that the province had to direct Nova Scotia Power Corporation to buy coal from a particular area.

The Nova Scotia Power Corporation now imports coal.

The government of the time made its decision for two reasons. First, Devco could not produce the volume of coal that was necessary at the time to meet the requirement. Second, there was an environmental requirement to blend the coals.

I sincerely join with Senator Buchanan in hoping that Donkin mine can be developed. I hope that if it is developed, it will employ 500 miners or even 1,000 miners.

However, I know in my heart that it will only be developed if it is economically viable and environmentally sound. We could make any kind of pronouncements we want. However, if that is not the case, it will not happen.

Senator Buchanan: May I ask a question?

Senator Boudreau: Yes.

Senator Buchanan: I have no disagreement when you say that it must be economically viable and environmentally sound. However, is the problem not that there is no company or group of people who would be able to develop Donkin mine unless it is economically feasible? A buyer must be able to raise the money to complete the development of the mine. The only possible way that that could happen would be if they had access to the Nova Scotia Power Corporation contract. If they do not have that, no one will lend them money.

Senator Boudreau: One of the witnesses made it clear to us. I believe it was Mr. Shannon, that the contract is not being sold. I believe he made that very clear. There is an illusion that there is a huge contract that automatically supplies 3 million tonnes a year to Nova Scotia Power Corporation for as long as they want. That is not the case.

If a group wanted to develop Donkin mine, they would need to find buyers, just as the individuals who would purchase of the balance of the workings would need to find buyers. If they could convince Nova Scotia Power Corporation that they can produce and deliver coal at a reasonable price, I do not know why they would not get a contract.

I should like to correct one unfortunate impression that may have been left with respect to the Cape Breton cooperative group involved in making the submission to take over the Donkin mine, or at least to take over some of the Devco assets. The Honourable Senator Buchanan discussed their potential rejection by the group responsible for shortlisting and the possibility of them choosing an appropriate private-sector operator. It was very clear in the hearings and from meetings that I have had with that particular group, that any buyer would come to the table with two very important qualifications. One qualification would be that any potential purchaser could raise \$70 million to \$90 million on the private market. I have some serious concerns that that would be possible. I doubt if someone could walk into the main office of the Toronto-Dominion Bank in downtown Toronto and negotiate that loan. That was one of the conditions.

The other condition was even more onerous. In order for a buyer to proceed, they would need this legislation not to permit ongoing successor rights to the union. In fact, the union rights would have been removed. Any proposal would have rested upon that condition. When the president of the United Mine Workers of America appeared before the committee, I asked if he would support such a thing. He responded by saying, "No, absolutely not." I think that there is very good reason why he would not support it.

By the way, if he did support it, there would be no guarantee that, should there be 500 jobs, the senior people would get them. They could hire anyone to fill those jobs. They could bring 500 people up from southern Tennessee. It was an essential element of this entire privatization process to have that collective agreement, and those successor rights in place.

I find it difficult to accept a summary dismissal of the judgment of Nesbitt Burns in this case.

Senator Buchanan: I have another question. I agree with Senator Boudreau that the successor rights were to be in place. However, there is no guarantee at the present time that the new owner of all the assets will even operate the Prince mine. That would require them to negotiate with the union. Steve Drake told us that there is no doubt about that, and the minister unequivocally said that they would have to negotiate under the Canada Labour Code.

Would not it have been better, as we had suggested, that the bill be held in abeyance until the negotiations were complete? We would be able to see exactly what this new company, apparently from the U.S., would do regarding a successor rights.

• (1640)

I spoke with people in the union and they would like to see that happen. They want to see the deal on the table before they accept it holus-bolus. Once the bill is passed, the contents fall under the purview of the federal government, not the House of Commons, the Senate or Parliament. The federal government can do what they like with it.

Senator Boudreau: I shall address that specific question. Why do we not simply postpone things, let the deal be made and then bring the deal back and we shall go through it?

I do not think that is very realistic from a commercial standpoint. Currently, we do not have the authority. The Cape Breton Development Corporation and the individuals involved on the team sitting down to negotiate have no authority to sell this corporation. They have no authority to make any terms whatever. Before any deal can be concluded, even in a preliminary fashion, the authority of this bill is required. The purchaser will ask if it can be sold and under what conditions.

If we leave the passage of this bill until after the fact, what would be the practical option of a purchaser? "Look, we think that, as part of the deal, we should have this particular provision." I simply think that, under these circumstances, that is unrealistic. It is legitimate to say —

Senator Buchanan: As Senator Murray just said, it is like going back to the shareholders.

Senator Boudreau: In these circumstances, the approach taken is a realistic approach. It is the only commercially viable approach. We the Senate have the opportunity to openly review the terms of the deal. We have made comments with respect to the 500 jobs. That was not an unreasonable comment for the committee to make. However, we must get on with it. I suggest, I implore senators, that we get on with this because people need to get on with their lives.

We must complete this arrangement. We shall not see the end of coal mining in Cape Breton and we shall not see the end of the government's involvement in this very key transition period for

the community. This is a necessary step and we must get it done. With that, I repeat my motion for third reading.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Senator Murray: On division.

Some Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed, on division.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, before we proceed to the next item, which will be continuing debate on Bill C-20, I rise pursuant to rule 38, to move —

Hon. Lowell Murray: What about Bill C-27?

Senator Hays: Bill C-27 is the parks bill. The spokesperson on the other side is Senator Rossiter. She will be here today, I am told. I am planning to call, as the next order of business, Bill C-20. Before I do that, I wish to make another motion.

BILL TO GIVE EFFECT TO THE REQUIREMENT FOR CLARITY AS SET OUT IN THE OPINION OF THE SUPREME COURT OF CANADA IN THE QUEBEC SUCCESSION REFERENCE

MOTION FOR ALLOTMENT OF TIME FOR DEBATE ADOPTED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, pursuant to rule 38, I move, seconded by the Honourable Senator Kinsella:

That, in relation to Bill C-20, An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference, no later than 3:30 p.m. Thursday, June 29, 2000, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of third reading of the Bill shall be put forthwith without further debate or amendment, and that any vote on any of those questions be not further deferred;

That if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes so that voting begins at 4:00 p.m.;

That after the first amendment is disposed of, if there are further amendments, the bells be sounded for five minutes after each amendment is disposed of; and

That, if at 6 p.m., the business of the Senate has not been completed, the Speaker shall not see the clock.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Lowell Murray: Honourable senators, will the Deputy Leader of the Government tell us whether he expects that Bill C-20 will be the last item of government business that the Senate will be addressing before summer recess?

Senator Hays: Honourable senators, this is a little irregular in that it is not a debatable motion that we are on at the present time. I wonder if I could respond to the honourable senator's question after the vote. I shall be happy to do so then.

Senator Murray: Sure.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Lowell Murray: Honourable senators, just to assist my friend, I wanted to know whether there were contingency plans for Parliament to deal with legislation in the event of a strike at Air Canada.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, the best answer that I can give is I do not know. It is fair to assume that that matter is under consideration. My assumption at this point in time, based on my discussions with my counterpart, Senator Kinsella, is that we shall be finished our business on Thursday next and that our disposition of Bill C-20, whatever it is, will see the end of our work before the summer recess. However, as I always do when I am asked such questions, I caution that, in this position, things change. I am not aware of any need to sit beyond that time at present.

Hon. Charlie Watt: Honourable senators, I have a question for the deputy leader. I have already spoken on my proposed amendment to Bill C-20. Will I have a second chance to refresh the memories of honourable senators, in other words, to speak again before the vote?

Senator Hays: That is a good question in that we shall not be disposing of the amendments one after the other, *seriatim*. I can assure Senator Watt there will be an opportunity for him to speak in that there will be, I assume, other amendments. I do not think he has spoken on the main motion, though he has spoken on his amendment. With a little bit of care, he might well find it possible to bring forward some of the issues when speaking to another amendment. That is all I can say.

The Hon. the Speaker: Honourable senators, for the clarification of the Chair and so there will be no misunderstanding, I understand that if there are a series of amendments, they will be voted on at the end of the process and that the speakers can speak on each amendment. That would answer Honourable Senator Watt's question.

The speeches will be on the broad scene and not simply on the specific amendment before us? This is how we have conducted ourselves in the past. Is my understanding correct?

• (1650)

Senator Hays: Honourable senators, perhaps others will be helpful. It is not part of the agreement that has now been accepted by the house, but my hope was that the final speakers would be the Leader of the Opposition and the Leader of the Government, and that senators who have proposed amendments might not have the usual right of reply simply because of the difficulty in ensuring that each and every one is treated properly. That, though, is a matter that has been raised, and I shall be happy to enter into a discussion with Senator Kinsella to see whether there is some way that this can be dealt with. However, at the present time, Your Honour, I could not say simply yes to your question.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I believe the understanding is that as far as this house order is concerned, the bells will ring for half an hour on Thursday from 3:30 p.m. until 4 p.m. A vote will then be taken on the last amendment brought forward, and we shall move through those amendments until we get to the main motion. However, between now and 3:30 Thursday afternoon, when the item is called, the debate proceeds. Any honourable senator can rise to participate in that debate. Should an amendment come forward to which an honourable senator wishes to speak, I believe that honourable senator has the right to get up to speak to it even though he or she may have spoken to the main motion or a previous amendment. We wish to allow for full participation in the debate, and we have the time between now and 3:30 p.m. on Thursday to do so.

Hon. Anne C. Cools: Honourable senators, we are all aware and fully comprehend that the vote will be Thursday afternoon. I think we have all known this for quite some time. Where my lack of clarity exists — and perhaps this is something that should be sorted out at some point in the future — is that once a motion such as the one by Senator Hays has been put and been voted on, it is not clear to me whether that motion speaks to the essential questions of how we proceed and how that time is used up. With respect to this process of finalizing a vote two days in advance and announcing it by a vote of the chamber, at some point we must settle down as a chamber and make decisions as to how we proceed, what the order is, how senators get to speak and how they do not get to speak. I note that His Honour was on his feet inquiring as to how he should be putting the votes, but at some time we should address as a chamber how we proceed in the event of such motions so we can all know and it would not be a mystery.

Senator Hays: Honourable senators, in response to Senator Cools' question, I do not know how helpful this will be, but this practice that you see being played out is the alternative to proceeding under our rules to allocate time. We have sometimes used that rule, and when we do, we are governed by the precise wording of the rules. It is sometimes the case that it is possible to reach an agreement as an alternative to that, such as Senator Kinsella and I have done, which permits the moving of other amendments and the ability to be more precise in terms of the time for a final vote on amendments and on the main motion.

This procedure does, I admit, leave a little uncertainty as to the kind of question raised by His Honour, but that is the nature of the circumstance in which we find ourselves. I think both Senator Kinsella and I, in my response to Senator Watt's question, indicated that senators who wish to speak within the time constraints will probably find an opportunity to do so under an amendment.

Senator Cools: Honourable senators, I want to be crystal clear that I shall have an opportunity to speak and that we shall not have a situation such as on Bill C-68 some years ago where many senators who wished to speak never had the opportunity to do so.

The Hon. the Speaker: Honourable senators, it is purely for the guidance of the chair that I ask this question. Senator Kinsella spoke in a very broad manner on the whole issue of the amendment of Honourable Senator Watt and no objection was raised. Therefore, I presume we shall continue that way. In other words, any senator wishing to speak to any amendment, if they have not spoken before, can speak to the amendment in general, not simply specifically to the amendment.

Honourable Senator Hays indicated that it was his desire that the Leader of the Government and the Leader of the Opposition be the two final speakers. It is impossible for the chair, of course, to control that. The chair must depend on honourable senators to arrange that amongst themselves.

Senator Hays: I understand.

Hon. Bill Rompkey: Honourable senators, I rise on a point of order. I should like leave to revert to Presentation of Reports from Standing or Special Committees.

The Hon. the Speaker: Is leave granted to revert to Presentation of Reports from Standing or Special Committees?

Senator Kinsella: We would be prepared to revert at the end of the day.

The Hon. the Speaker: Honourable senators, if leave is not granted, we shall revert at the end of the day.

[Translation]

BILL TO GIVE EFFECT TO THE REQUIREMENT FOR CLARITY AS SET OUT IN THE OPINION OF THE SUPREME COURT OF CANADA IN THE QUEBEC SECESSION REFERENCE

THIRD READING—MOTIONS IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Graham, P.C., for the third reading of Bill C-20, to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference:

And on the motion in amendment of the Honourable Senator Watt, seconded by the Honourable Senator Adams, that the bill be amended, in paragraph six of the Preamble to read as follows:

WHEREAS the Supreme Court of Canada has confirmed that, in Canada, the secession of a province, to be lawful, would require an amendment to the Constitution of Canada, that such an amendment would perforce require negotiations in relation to secession involving at least the governments of all of the provinces and the Government of Canada, **as well as representatives of the aboriginal peoples of Canada, especially those in the province whose government proposed the referendum on secession**, and that those negotiations would be governed by the principles of federalism, democracy, constitutionalism and the rule of law, and the protection of minorities;

and in subclause 3(1) to read as follows:

It is recognized that there is no right under the Constitution of Canada to effect the secession of a province from Canada unilaterally and that, therefore, an amendment to the Constitution of Canada would be required for any province to secede from Canada, which in turn would require negotiations involving at least the governments of all of the provinces and the Government of Canada, **and the representatives of the aboriginal peoples of Canada, especially those in the province whose government proposed the referendum on secession**.

Hon. Jean-Robert Gauthier: Honourable senators, first of all, I must say, with respect to this discussion on procedure, that it is always dangerous to play with the rules. Things are very confusing when it comes to the amendment and the main motion.

At third reading stage of Bill C-20, I will begin by saying that, for many of us, the parliamentary debate on Bill C-20 has been extremely interesting and instructive.

I am neither a lawyer nor a constitutionalist. I therefore benefitted from the testimony and well-reasoned arguments presented by witnesses and senators before the special Senate committee and here in the house. As a lawmaker, I believe that I now have a better understanding of the complexity of the issues raised by this bill.

It is not my intention to dwell on all the issues. I do not have the expertise of certain senators, and I do not have the time in the 15 minutes allotted me.

First, Bill C-20 leaves the Senate out of the process of determining the clarity of the question and of the required majority. Such an approach runs counter to Canada's bicameral parliamentary system, which recognizes the obligation to obtain the consent of both Houses of Parliament before binding the Canadian government. In fact, just after the preamble and before clause 1, Bill C-20 says:

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

By passing this bill, the Senate is cutting itself out of the parliamentary process. This is a dangerous precedent and perhaps even unconstitutional. Such an approach has already been suggested and used by the government. One of the most recent precedents was in the reform of the Canadian financial services sector, where the Senate was excluded from decisions about bank mergers.

Second, I always thought my country was indivisible. Perhaps I am a bit naive. Bill C-20 confirms that, under certain conditions, a province could separate from Canada, citing as an authority the Supreme Court opinion.

Third, with regard to the need for a national referendum before negotiations with respect to the secession of a province can be entered into, in committee, our colleague, Senator Joyal, emphasized the need and clearly explained the reason for such a provision.

• (1700)

Fourth, the right of aboriginal peoples to take part in consultations on clarity and to sit at the negotiating table on the secession of a province, should their constitutional rights be affected.

Finally — and this is the point I shall focus on — the right of official language minorities, which must be specifically mentioned in the bill in connection with the consultations that must be held by the House of Commons within the framework of an examination of the referendum question, in clauses 1(5) and 2(3).

Some may say that it is not necessary to specify that the linguistic minorities must be involved. There is nothing in Bill C-20 to include official language minorities in the consultations, yet these are the communities that will be most affected by the agonizing solution that is being contemplated.

The linguistic minorities are invited by Minister Dion to have faith in the political future of the country. The House of Commons must take into consideration all intervenors listed in the bill, yet the linguistic minorities are not among them.

Minister Dion suggests it is not necessary to list the linguistic minorities specifically in clause 3(2), because they are included in the minorities that clause addresses. A number of groups, however, are considered minorities: women, the disabled, homosexuals, as well as cultural, racial and religious minorities, and some others I have likely forgotten. Yet, according to the Charlottetown Agreement, the interests of certain minorities had been taken into consideration. The same phenomenon is liable to repeat itself if there should be constitutional negotiations after a referendum. It is therefore necessary to expressly protect linguistic minorities in Bill C-20. Who knows what party will be in power when such negotiations take place? We can certainly not expect the Canadian Alliance to protect us. We know what their position is.

If someone were capable of predicting the future, and of telling me when the next referendum will be and what party will be in power in the Canadian Parliament at that time, then perhaps I would be reassured, but I am not that naive.

This is why, for greater certainty, I prefer the protection afforded by an act that is clear and precise, particularly one that provides for the consulting of those groups that will be seriously affected by the process. Finally, like aboriginal people, I want to be consulted about and involved in any political and constitutional change. This is why I will table an amendment that will give official language minorities the political guarantee that they will be heard by the House of Commons during its evaluation of the clarity.

I am not asking for more, but not for less either. We are one of the founding peoples of this country, just like the aboriginals, and there are many more of us. There are over 1.5 million Canadians who are part of linguistic minorities. We want to be treated as equals.

I am confident that such an amendment will allow Quebec's anglophone minority to be heard by the House of Commons, and also the francophone and Acadian minorities, which would be the most affected, should negotiations on the secession of Quebec be undertaken.

The Senate has traditionally been the protector of minorities and regional interests. As a francophone resident born in Ontario, I remain faithful to my minority group and this is why I want to make an argument in favour of this amendment. I know that I will probably not convince the majority, but I will try to talk about consultation, as opposed to negotiation.

The bill provides that, in considering the clarity of a referendum question, the House of Commons shall take into account the views of a number of stakeholders. These stakeholders are identified in clauses 1(5) and 2(3). However, the bill is silent on official language communities.

Honourable senators will remember that the House of Commons amended Bill C-20 to include aboriginal peoples, particularly those in the province where a referendum would be held. I find that amendment to be fair and equitable, because aboriginal people have a direct interest in this public consultation process. Minister Dion explained to me in committee, and I quote:

We agreed to mention Aboriginals specifically only because they have a specific role in the Constitution under section 35.1.

It seems just as important to me that linguistic minorities enjoy the same rights. We have two official languages and they are protected by our Constitution. If section 35 of the Constitution protects aboriginals, and I agree that it does, then sections 16 to 23 of our Constitution do the same for official languages minorities. Why the difference?

Official language minority communities are present in all regions of the country and are the key to Canada's linguistic duality, which is the cornerstone of our national identity. Since our country's future would be at stake in such a referendum, I, for one, think it essential that these minorities be heard in the process of consultation with respect to clarity.

During the meetings of the Senate committee, certain individuals tried to confuse the issue by introducing the concept of negotiation along with consultation. There is a fundamental difference between consulting and negotiating. Representatives of the Fédération des communautés francophones et acadienne were very clear in this regard. On June 12, Gino Leblanc, the federation's president, had this to say in committee, and I quote:

We are not, nor do we pretend to be a government. We are not elected, but our legitimacy comes from our democratic community structures.

The minorities are talking about consultation only. They do not claim to be representatives of governments that could eventually be involved in the negotiation process. Honourable senators, the negotiations will be complicated and laborious. Like all

minorities, we will be well represented by the political authorities, who we are confident will respect our constitutional rights. I think it essential that these political authorities be well informed.

In the *Beaulac* decision, the Supreme Court of Canada ruled that section 16 of the Charter must be interpreted so as to ensure the preservation and development of linguistic communities. On pages 790-791 of the ruling, it explains that language rights, specifically section 16, create obligations for the Government of Canada. These rights require the government to take concrete action to ensure respect for language rights and for the preservation and development of linguistic communities. I refer you to a report by Senator Jean-Maurice Simard recently tabled in the house, in which it is specifically recommended that any passage of future bills take into account the interests of both official languages. I think that this is a good recommendation and one that we should adopt.

Therefore, the federal government cannot pass an act without ensuring the protection of the linguistic minorities of Canada since all French minority groups in Canada would in all likelihood bear the brunt of the English majority's backlash after Quebec secedes. If you want examples, I can give you some. Just remember what happened when Quebec adopted an act restricting the use of English on signs. Seventy Ontario municipalities adopted resolutions proclaiming that they were unilingual English in reaction to Quebec's Bill 101. The federal government therefore cannot pass an act without ensuring the protection of the linguistic minorities of Canada. Since the French minorities would in all likelihood bear the brunt of the majority's backlash in the province, the federal government has to ensure their participation and their protection in Bill C-20.

• (1710)

Honourable senators, this call for fairness and justice comes from someone who has spent more than 40 years of his life to defend the rights of French Canadians outside Quebec.

MOTION IN AMENDMENT

Hon. Jean-Robert Gauthier: On their behalf, honourable senators, I sincerely ask you to consider the following amendment. I move seconded by Senator Corbin:

That Bill C-20 be not now read a third time but that it be amended,

(a) in clause 1, on page 3, by replacing line 40 with the following:

“resolutions by the Senate, any formal statements or resolutions by the representatives of the English or French linguistic minority population of each province, especially those in the province whose government is proposing the referendum on secession, any formal state-”; and

(b) in clause 2, on page 5, by replacing line 2 with the following:

“ate, any formal statements or resolutions by the representatives of the English or French linguistic minority population of each province, especially those in the province whose government proposed the referendum on secession, any formal statements or resolutions by”.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

[English]

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, this is one of the amendments that will be dealt with on Thursday in the votes which precede the vote on the main motion.

Senator Gauthier: Honourable senators, I rise on a point of order.

I do not believe His Honour read the amendment as I handed it to him. I believe the words: “anglophone and francophone” were omitted. Mention was only made of francophones. There is a reference to anglophones in the amendment.

[Translation]

The Hon. the Speaker: Honourable senators, I read the wording of the amendment in French: “de la minorité francophone ou anglophone de chaque province”. That is what is in the text.

Hon. Gérald-A. Beaudoin: I would have a question for Senator Gauthier, if he accepts it.

The Hon. the Speaker: I am sorry, honourable senators, but Senator Gauthier has used up the 15 minutes at his disposal.

[English]

Senator Hays: Honourable senators, I propose that we give leave to Senator Gauthier to allow him to continue for another 10 minutes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

[Translation]

Senator Beaudoin: Honourable senators, my question is this: In the Supreme Court opinion, reference is made to certain key parameters, one being minority rights and the other constitutionality. I should like to know whether the basis of Senator Gauthier’s argument is that, under section 16 of the Charter, we have two official languages in Canada — these being entrenched in the Constitution — and that in the constitutional

negotiation that might follow on a clear verdict and a clear question, the official language minorities cannot be ignored and have a right to enter into the debate on constitutional negotiations.

I find the argument an interesting one, but I should like to know whether this is indeed the argument of the Honourable Senator Gauthier.

Senator Gauthier: I must tell you, honourable senators, that I am totally in agreement with the present provisions. I do not understand why we have been excluded from the debate. As the honourable senator said, section 16 is clear and the Supreme Court explained clearly in *Beaulac* what it meant for a country to have two official languages.

It is said that the minorities are covered by the preamble to Bill C-20, as Minister Dion has said, but as I pointed out in my speech, the term “minority” can have a lot of different meanings. There is, however, one minority which must be heeded, in my opinion, and that is the linguistic minority, when a constitutional or other change is to be made. I do not claim any expertise and I would not like to get into the area of negotiations. However, I do believe that it is clear in the legislation that we must be present at the consultations on which the House of Commons has pre-empted the right to decide. This is important because the Senate will no longer be there to protect minorities, and only the House of Commons will be authorized to reach the decision, which displeases me greatly.

Hon. Pierre Claude Nolin: Honourable senators, when I spoke last April 13 in the debate on second reading of Bill C-20, I voiced my strong opposition to this initiative. At that time, I believed that it was dangerous to judicialize the process of Quebec’s access to sovereignty, since this is essentially a political process.

That was two months ago. Since then, a special Senate committee has been set up to review Bill C-20. After having taken part in each of the committee’s sittings and after questioning many witnesses on the presumed legitimacy and effectiveness of the bill, I remain convinced that the Senate must reject this initiative to avoid a situation where this legislation would hang over the future of our country like the sword of Damocles.

This is why, honourable senators, I first intend to discuss the legitimacy of Bill C-20. Then, I will show its ineffectiveness in providing a framework for the process allowing Quebec to secede, should the sovereignist option prevail in a future referendum. Finally, I will conclude my speech by sharing with you my vision of what the next referendum campaign could be if we pass this legislation.

Honourable senators, let us begin with the legitimacy of Bill C-20. When he appeared before the Senate committee on Bill C-20 for the second time, the Minister of Intergovernmental Affairs, Mr. Dion, said again:

● (1720)

[English]

I think we all agree that this Supreme Court reference about Quebec secession is binding. All the legal experts have told you that it is binding. It is more than binding. It is an incredible victory for Canadian unity and for democracy.

[Translation]

Still, since the bill was introduced, I always questioned the need to have an act to meet, as the title of the bill suggests, the alleged "requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference." In that sense, I did not interpret that opinion in the same way as the minister did.

Unlike the minister, the Supreme Court showed great restraint in the scope of its findings. It drew a dividing line between the issues that come under its responsibilities and those that it sees as being part of the political dimensions of the constitutional negotiations. That, in my view, is fully justified. In paragraph 100 of its opinion, the Supreme Court stated that it is the responsibility of the political actors to determine what constitutes a clear majority on a clear question, based on the circumstances prevailing, before undertaking negotiations. Only the political actors would have the information and expertise to make the appropriate judgment as to the point at which, and the circumstances in which, those ambiguities are resolved one way or the other.

The court concluded at paragraph 101:

To the extent that the questions are political in nature, it is not the role of the judiciary to interpose its own views on the different negotiating positions of the parties, even were it invited to do so.

Accordingly, the court does not, nor does it wish to, play a role of overseeing the actions of the political players, who will define the political framework in which negotiations with respect to the secession of Quebec are held. It is clear to me that the Supreme Court is explicitly asking us not to take a legislative approach to a purely political matter. Especially when we do not yet know the circumstances under which the next referendum will be held.

But the federal government has ignored this conclusion by introducing Bill C-20. With respect to the binding nature of a Supreme Court opinion, a former justice of the highest court in the land, Willard Estey, testified during his appearance before the special committee:

[English]

There is no classic definition for Canada's system of referring questions to the courts. They are not judgments. There are no parties. Neither *stare decisis* nor *res judicata* arises from a reference....The power of an advisory opinion is moral; second, it is human nature....The advisory opinion

is not a big thing that I am leaning on. It simply illuminates the sky around events.

[Translation]

In his presentation before the committee, Professor Patrice Garant of Laval University confirmed my fears with respect to the risk for Ottawa of taking a legislative approach to a political matter such as the secession of Quebec. He said:

From a purely legal point of view, Bill C-20 could face a constitutional challenge because it was enacted by Parliament. Government decisions will flow from the legislation and possibly even from the House of Commons resolution...This bill runs the risk of setting us on a course of constitutional challenges.

I do not know if this is what the government hopes to accomplish with Bill C-20. However, there is no doubt that it could have very serious political repercussions on the eve of another referendum on the secession of Quebec.

Already, the federal government is weakening the position of federalists in Quebec with this bill. Given the failure to respect the bicameral nature of the Canadian parliamentary system and the prerogatives of Quebec's National Assembly, a negative ruling by a court on the bill's constitutionality could destroy Ottawa's credibility in Quebec, and more particularly in the rest of Canada.

That is, moreover, what Jean Charest, the leader of the Quebec Liberal Party and of the federalist camp in the next referendum, stated on May 25 on the program *RDI à l'écoute*. According to him:

There is, I believe, a very strong majority opinion on Bill C-20. Among other things, what has been done is to judicialize what is a political issue. This is, I feel, a very bad idea, and we opposed the bill. Being consistent, we are opposed as well to the Parti Québécois government's reaction of also judicializing an issue which is of a political nature, as far as Quebec is concerned. I believe this is a very serious error, and one that is liable to again set off legal wrangling that will go on for some years.

Honourable senators, it is true that the government can ask Parliament to enact the legislation that it wants, provided that legislation respects the limits and jurisdictions assigned to it by the Constitution Act, 1867. However, I was pleased that a number of witnesses that came before the special committee shared my opinion that the legal bases of this initiative are not in the April 1998 Supreme Court opinion. I must point out that the courts that will determine the legitimacy of Bill C-20 will not be indifferent to the remarkable work of the special committee of this House in addressing the bases of this initiative. The Minister of Intergovernmental Affairs and the Prime Minister of Canada, both of whom refused to heed the court's caution about the temptation to judicialize a political matter, will have to live with the consequences of their actions.

Honourable senators, it is distressing to realize that the government has decided to take refuge behind a theoretical approach based on constitutional law in order to deal with a political and social phenomenon. This is entirely divorced from the reality. It may, of course, have short-term results, as we have seen earlier this year, with considerable popular support for the Liberal Party. If, however, Bill C-20 were to be implemented some day, a number of Canadians might well be amazed to find that this initiative does not have the touted curative virtues the minister attributed to it during the committee deliberations. The future of a country cannot be dealt with in this way.

The minister never told the public that the court, in discussing the issue of economical and political interests, unstable political climate, minorities and borders that would be at the core of the negotiations following a victory of the sovereignists, wrote, in paragraph 97:

In the circumstances, negotiations following such a referendum would undoubtedly be difficult. While the negotiators would have to contemplate the possibility of secession, there would be no absolute legal entitlement to it and no assumption that an agreement reconciling all relevant rights and obligations would actually be reached. It is foreseeable that even negotiations carried out in conformity with the underlying constitutional principles could reach an impasse.

Contrary to the minister, the court did not hesitate to say that the framework that it defined has serious limitations. In the real world, it is very likely that it would never work. Such comments are explicit enough to question, as I said earlier, the effectiveness of Bill C-20 in the eyes of many Canadians. When he testified before the committee, the President of the Canada West Foundation, Roger Gibbins, spoke about this ineffectiveness of the bill. He said:

There is a strong possibility that western Canadians assume that the clarity bill goes much further than it does. It would not surprise me, for example, if western Canadians were to believe that the bill both defines the question that might be posed to Quebecers and sets the threshold level at which a Quebec vote would trigger a response by the Government of Canada. In other words, Bill C-20 falls short, and perhaps well short, of public expectations in these respects.

Honourable senators, as regards the referendum question that will be put to Quebecers, a few witnesses have confirmed that the Supreme Court never suggested that, in order to be clear, the question must be on a specific option — as currently stated in clause 1 of the bill — when it referred to a “clear question.”

Former Supreme Court Justice Willard Estey said, in his testimony:

[English]

This is a strange bill. It is put together in a strange way, as though it had many authors. I cannot understand how they arrived at the arbiter of the meaning of “clear.”

[Translation]

Aside from constitutional and legal issues, unless the polls show that support for sovereignty is climbing back up, it is a foregone conclusion that, for political reasons, the government of Lucien Bouchard will never put the question that Ottawa would like to see in a referendum. This is why Bill C-20 will not be very effective in imposing the terms of the question to Quebec parliamentarians.

From a purely legal point of view, the decision the House of Commons made about the clarity of the question can be construed as an improper intrusion of the federal government into a prerogative of the National Assembly. That is what Patrice Garant, a law professor at Laval University believes and what he stated before the committee when he said, and I quote:

In a federal system, it might be considered bad form for a Parliament to comment on the quality of an intervention undertaken by another legislature... I would by far prefer that we allow some time to pass and that we wait for the results of the referendum, examine the question and the answer, and see whether they meet the criteria for clarity set out in Bill C-20.

Although the third paragraph of the preamble reaffirms the right of the National Assembly to formulate its referendum question, clause 1 of the bill says differently.

Unfortunately, the same criticisms can also be applied to clause 2 of the bill. It sets out the criteria the House of Commons will use to determine if the majority of Quebecers who would have voted for sovereignty is a clear majority, taking into account the size of the majority, the participation rate and any other factor the hon. members deem appropriate. In the speech I gave last April, I said that those criteria are so vague that they will let the House of Commons make a biased decision based mostly on partisan considerations. As Michael Behiels, a professor at Ottawa University, said before the committee:

[English]

The legislation, as it now stands is, in fact, wide open. It is far too discretionary. It will give the federal government, and, of course, the cabinet and the governing caucus, far too much power to decide, after the fact, what it considers to be a legitimate vote. I think, in a democracy, that is unacceptable.

[Translation]

Patrice Garant went even further and said that, because they are not precise enough, the factors in clause 2 of the bill could be a threat for the basic freedoms of Quebecers under the Canadian Charter of Rights and Freedoms. Thus, the bill could be vulnerable and open to a court challenge because of its lack of precision. The bottom line is that the federal government should give a more precise meaning to the concepts of clear majority and required level of participation. This will help avoid any confusion in the minds of Quebecers and Canadians in the next referendum as to the position of Ottawa on this issue. Moreover, if the other factors to be considered by the House of Commons were better defined in clause 2, we would prevent partisan considerations from clouding the proceedings of the House when it is called upon to determine the clarity of the majority. The courts seldom accept lack of precision in legislation.

Honourable senators, I am concerned about this lack of openness on the part of the government. It can only contribute to a false feeling of security. Many Canadians could be tempted to believe that this legislation makes the secession of Quebec virtually impossible. However, the minister keeps refusing amendments that could clarify the clarity bill. This uncompromising attitude could well result in Bill C-20 being challenged before the courts and could have a very major political impact in the next referendum.

The Hon. the Speaker: I am sorry to interrupt you, Senator Nolin, but your 15-minute period is over.

Senator Nolin: Honourable senators, I ask leave to continue.

[English]

Senator Hays: Honourable senators, I propose that the time of Senator Nolin be extended by 10 minutes.

The Hon. the Speaker: Is leave granted to extend the time of Senator Nolin by 10 minutes?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

[Translation]

Senator Nolin: Honourable senators, the third part deals with the impact of Bill C-20 on the next referendum campaign. I would now like to conclude this exercise by stating that in addition to being ineffective to counter the threat that Quebec

sovereignty presents for the rest of Canada, Bill C-20 could disorganize and derail the campaign on the federalist side.

As you know, I was deeply involved in the last referendum held in Quebec, and I humbly claim I know what I am talking about when I talk about the 1995 referendum campaign. The last weeks of the campaign were difficult for most Quebec federalists. The possibility of a defeat created a feeling of panic everywhere in Canada, a feeling that the current Prime Minister of Canada was unable to check.

As for myself, I confess that I do not want to relive such a situation any more. However, in the next referendum, the situation could be worse since Bill C-20 will force the House of Commons to take a decision on the clarity of the question, a decision that could come up right in the middle of the referendum campaign. Let me explain.

Bill C-20 provides that the House of Commons shall, within thirty days after the Government of Quebec tables — not gets the approval of — in its legislative assembly the question it intends to submit to its voters in a referendum relating to the proposed sovereignty of the province, consider the question and, by resolution, set out its determination on whether the question is clear. In considering the clarity of the question, the House of Commons shall consider whether the question would result in a clear expression of the will of the population of the province on whether the province should cease to be a part of Canada and become an independent state. If the House of Commons determines that a referendum question is not clear, the Government of Canada shall not enter into negotiations on the terms on which a province might cease to be a part of Canada.

Under section 7 of the *Loi sur la consultation populaire du Québec*, if a referendum is organized by the Government of Quebec, only the National Assembly may decide on the wording of the question to be put to Quebecers. Debate on a bill or a question to be put to the public may not exceed 35 hours. Under section 14 of the same legislation, no order with respect to the holding of a referendum may be issued before the 18th day following the day on which the question or the bill to be put to the public is submitted to the National Assembly. If Bill C-20 had been in effect in early 1995, the question put by the PQ government would probably have been found unacceptable by the House of Commons. According to Minister Dion, it would have taken less than 30 minutes.

All those who think that the rights of minorities, rights other than provincial rights, will be taken into consideration during consideration of the clarity of the question can think again. The minister himself has told us that 30 minutes is all it would have taken in 1995 to decide on the clarity of the question. Those who think that aboriginals, among other groups, will be consulted can forget about it.

A number of observers, including Roger Gibbins and Patrice Garant, are worried, as I am, about the inclusion of a limit of 30 days in Bill C-20. The reason is simple. This decision could be taken a few days before the holding of a decisive vote on the future of Quebec and of Canada.

Considering the climate in which the last referendum campaign took place, it is likely that, if the House of Commons declares that the question passed by the National Assembly is not clear, there will be disastrous repercussions for the strategy of the No camp. In this regard, the example of the 1995 referendum is very useful in evaluating the impact of Bill C-20 during the next referendum campaign, because it could happen again in the near future.

This is the reason why.

On September 11, 1995, then Quebec Premier Jacques Parizeau introduced a draft bill on Quebec sovereignty in the National Assembly. The bill addressed, in particular, the question to be asked of Quebecers in the referendum planned for late October that same year. On Sunday October 1, 1995, in other words 19 days after that, the cabinet approved an Order in Council ordering a vote to be held on Quebec sovereignty on October 30. Had Bill C-20 been in effect in 1995, the House of Commons would have had to reach a decision on the clarity of that question by October 10, 1995 at the latest, or 20 days before the vote and in the heat of the referendum campaign. It was precisely at that point that the No camp was experiencing considerable reverses, while the Yes side was experiencing an equivalent gain. Lucien Bouchard became the spokesperson for the Yes side after his appointment on October 7, 1995 as chief negotiator for Quebec after the victory of sovereignty. The No option began to lose ground in the polls, both those released to the public and those made available only to the key federal organizers in Quebec.

One can therefore imagine that a decision by the House of Commons disapproving of the question asked by the National Assembly would have had disastrous consequences for the NO camp under the direction of former Quebec premier Daniel Johnson. The sovereignist big guns would likely have spoken out vigorously against this unacceptable interference by Ottawa in the Quebec referendum process. Trust me, they are capable of doing so! It can be taken for granted that such a decision would have stirred up the ire not just of the sovereignists but also of the "soft nationalists" who allowed the federalist option to win by a scant majority on the October 30, 1995 referendum evening.

It can, therefore, be stated without hesitation that if the Government of Quebec wanted to win the next referendum, it would merely have to repeat the scenario of 1995. The House of Commons, constrained by the provisions of Bill C-20, will have no choice but to decide on the clarity of the question, and probably to disavow it, during the referendum campaign. This is, therefore, an excellent strategy for the Yes camp, which might be able to capitalize on the unacceptable and unprecedented character of this decision against the democracy of Quebec. The No camp, on the other hand, will need to devote the last 20 days of the campaign to downplaying the importance of such a decision.

In a worse case scenario, it will create major dissension within federal ranks. In that regard, Claude Ryan, the former leader of the No side during the first referendum, the one held in 1980, said the following when he testified before the committee and I quote:

[...] with Bill C-20, the federal government undoubtedly wants to give the federalist forces an additional weapon in the battle against Quebec separatism. However, it is risking creating the opposite effect in Quebec...Bill C-20 is helping to feed the anti-federalist convictions of Quebec sovereignists, and is unfortunately a source of pointless tension at this time within the federal forces.

To avoid such a situation, Patrice Garant is adamant. When he testified, he said that the 30-day period should be removed from clause 1 of Bill C-20 to avoid having the decision be perceived as interference in the Quebec referendum campaign. Still, when he testified on May 29, the minister said, and I quote:

Join me in saying that it is not interfering. You cannot let people say the House is interfering when that is not the case.

Such a statement should make the sovereignists happy.

Honourable senators, I ask you: Do we need an act to make Quebecers understand what is truly at stake with the next referendum question? Based on my political experience, I can tell you that this is useless and dangerous. It is true that since 1995, several observers, including professors Maurice Pinard from McGill University and Guy Lachapelle from Concordia University, have speculated on the clarity of the referendum question and the degree of understanding of that question by Quebecers, on the basis of a detailed study of surveys.

However, most observers agreed at the time that the Liberals led by Daniel Johnson would have won the debate on the question at the National Assembly to convince Quebecers that the question was confusing. In fact, on September 20, 1995, the 44 Liberal members at the National Assembly voted against the draft bill and the wording of the question. Quebecers were not indifferent to the debate on the question at the National Assembly, which took place over 35 hours between September 11 and 20, 1995, and to the result of the vote on the draft bill.

The Hon. the Speaker: I regret to interrupt the Honourable Senator Nolin, but the time allotted for his speech has expired.

[English]

Senator Hays: Honourable senators, I propose a further five-minute extension for Senator Nolin.

The Hon. the Speaker: Is leave granted to extend a further five minutes for Senator Nolin?

Hon. Senators: Agreed.

[Translation]

Senator Nolin: Honourable senators, an initial poll by CREATEC of 1,004 Quebecers between September 15 and 19, 1995, found that 53 per cent of them found the question ambiguous. A second poll conducted between September 19 and 25, 1995, confirmed that over 46 per cent of Quebecers found the question ambiguous.

Without resorting to an initiative such as Bill C-20, almost half of Quebecers in 1995 were able to say that the question they were being asked was not clear. Despite the fact that most of the polls carried out during the referendum campaign showed that a large percentage of Quebecers believed that a sovereign Quebec would keep Canadian currency, passports and citizenship, and that it would still have MPs in Ottawa, Quebecers were still able to see that the question was ambiguous. Quebecers are intelligent enough to decide whether or not a question is clear without the House of Commons formally interfering in the process of democracy in Quebec, with all the political risks that that entails. As Professor Garant said, and I quote:

People, voters, are nevertheless not schoolchildren. They can make their own judgments, up to a certain level.

In addition, leaders of the no side did not hesitate to state publicly that the referendum question asked in 1995 by sovereignists was ambiguous. Shortly after the draft bill on sovereignty was introduced, Mr. Johnson had this to say:

By using very strong language such as "signed agreement", "formally" and "offer of partnership" in the question, Mr. Parizeau and his allies are giving Quebecers the impression that they will be deciding on a new partnership and not on the separation pure and simple of Quebec...clarity is the first standard, the least that citizens expect.

For his part, the Prime Minister of Canada, the Right Honourable Jean Chrétien, said in Toronto on September 12, 1995:

The question is not very clear, because one cannot say what exactly the referendum strategy is. They are trying to deceive people, to get them to think that there will be some sort of agreement, which is strictly hypothetical. For me, it is clear: a yes vote in a referendum is a one-way ticket out of Canada for Quebec. That is what it means. They did not want to be very honest about the question, and it is our job to tell people that they will be voting for separation.

Nonetheless, he said that his government would play an active role in the referendum campaign in order to convince Quebecers that the question was misleading.

Thus, contrary to the binding rules of Bill C-20, a simple official statement from the Prime Minister of Canada or the leader of the no forces with respect to the clarity of the question

during the Quebec referendum campaign would suffice to get across to voters of Quebec and of Canada what the federal government's position was on the referendum question.

• (1750)

In conclusion, honourable senators, with all the arguments I have advanced, a careful reading of Bill C-20 is sufficient to convince us that it is poorly written and does not respect the principles of Canadian federalism and democracy. As a result, it smacks of a vote-getting campaign aimed at Quebec rather than a serious piece of legislation. Moreover, in Minister Dion's appearance before the committee, he confirmed that the objectives of Bill C-20 were first and foremost political. Was it intended to scare Quebecers or to polarize Canadian public opinion? As University of Ottawa law professor Joe Magnet told the committee:

[English]

We cannot scare people into wanting to stay in Canada. To the extent that this bill attempts to do that, I do not think this is a particularly great strategy.

He continues:

...my experience is that trying to scare people is not a good thing.

[Translation]

We will be called upon as parliamentarians within the next few days to reach a decision that is fraught with consequences for the future of Canada and the millions of Quebec federalists who are prepared to commit themselves to saving our country. Theirs is an unpleasant duty, but as the former Prime Minister of Canada, the Right Honourable Brian Mulroney, said during a speech on June 21, 1990 before the Newfoundland Legislative Assembly, just one day before the failure of the Meech Lake Accord:

[English]

Everything we do in this life brings with it consequences. Some good, some bad, some wilful and some unintended. We all have to live with the consequences of our own decision. As Members of Parliament, we are elected to stand up and take the heat and decide, and so we must accept the consequences of our action.

Hon. Douglas Roche: Honourable senators, I rise today to discuss Bill C-20, the most important piece of legislation to confront the Senate in my time in this chamber. Like other senators, I have carefully considered the merits of the clarity bill from a variety of viewpoints, studying the substantial testimony presented to this special Senate committee. Upon careful reflection, I have determined that there are four points upon which I situate my position on this bill. The first is the constitutionality of the bill. The second is the politics behind it. The third is its wisdom: Is it good for the country? The fourth is the role accorded to the Senate.

Honourable senators, I shall speak first of the constitutionality of the bill. Whether everyone likes it or not, the Supreme Court of Canada's ruling in the secession reference is binding. Its ruling must be respected. Furthermore, the clarity bill is consistent with this ruling in establishing both guidelines and procedures for the establishment of clarity in any referendum process and the possibility of a secession of a province.

The Supreme Court has made it clear in the secession reference that the amending procedures of the Constitution extend to all types of amendments, including the secession of a province. I share with my colleagues the difficulty in recognizing the divisibility of Canada, but does anyone in this chamber believe that the separatists maintain Canada's indivisibility? We know they do not. We know that they contemplate, and most likely would declare, unilateral independence with a 50 per cent plus one majority.

We must formulate an answer to this most dangerous situation. We must have the framework at our disposal to counter the ambiguity thus far inherent in the process and outcome of a referendum on secession. We cannot hide behind the belief that the potential breakup of our country is not possible because "Canada is indivisible."

Just as no province has the legal right to unilaterally secede from Canada, Canada has not the legal nor the moral right to hold against their resolve those Quebecers who have clearly expressed their democratic will to secede.

The Government of Canada cannot be indifferent to the expression of a desire to secede by a clear, substantial majority on a clear question. The Supreme Court has told us this. If the scenario of having to negotiate secession should ever arise, there exists an obligation to undertake negotiations on secession within the legal framework of the Constitution. In accordance, then, with the Supreme Court's ruling that Canada's divisibility would be acceptable only under conditions of clarity and would have to be effected through a constitutional amendment, Bill C-20 effectively establishes the rule of law in a situation of extreme confusion and uncertainty.

The second issue, honourable senators, is politics. All problems cannot be settled before the courts. Even the Supreme Court recognized that this issue must ultimately be resolved in the political realm, and so I move to the politics of Bill C-20.

In this legislation, I see recognition of the errors and ambiguities of the 1995 referendum campaign. We now know that the secessionist government of Quebec held the 1995 referendum with the intention of declaring unilateral independence if the Yes side had won by so much as a single vote. There was an ambiguous question, and polls later demonstrated that the people of Quebec voted in confusion. There were beliefs in 1995 that a Yes vote would only lead to negotiations between Quebec and Ottawa. There were beliefs that a majority Yes vote would only act as a bigger bargaining chip for Quebec within future provincial-federal relations. Many wondered whether the federal government would protect minorities who sought to remain in Canada. Beliefs over the

sanctity of Quebec's borders in case of a secessionist victory corresponded only to political aspirations, not to the rule of law.

What dangerous ambiguities these were — ambiguities that continue to threaten the constitutional rights of Quebecers and of all Canadians.

Linguistic and ethnic minorities within Quebec, in particular, have felt their representatives have failed to defend their constitutional rights. This damaged confidence has manifested itself in a series of municipalities within Quebec, representing nearly 1 million people, having passed resolutions supporting their citizens' right to remain a part of Canada regardless of any referendum result. We cannot ignore that these municipal councils have conveyed Quebecers' lack of confidence that their constitutional rights will be defended at the federal level.

In Bill C-20, the government has responded by legislating the recognition of those demands for a clear legal framework to the threat of separation, a legal framework that safeguards the constitutional rights of the people of Quebec and all of Canada who are threatened with the fracturing of their country through ambiguity.

Bill C-20 will do a great service to the people of Quebec and to all Canadians by restoring the rule of law to any future referendum process. The clarity bill ensures that the law, as it should, informs and shapes the unity debate.

I come now to the wisdom of the bill, honourable senators. One of the great strengths of Bill C-20 is the wisdom of laying down the criteria for clarity in advance of any future separatist referendum. I see nothing in Bill C-20 that endorses, sets a road map or validates secession or the divisibility of Canada. I find it also difficult to sustain the argument that the bill is a provocation to Quebec and that it prevents the people of Quebec from freely choosing their own destiny. The bill does nothing of the sort. In fact, reactions to Bill C-20 have been either supportive or indifferent in that province. Only the Parti Québécois has responded with vehemence — and how have they? By reiterating that they plan to ignore the Supreme Court ruling in any future referendum. To my mind, this only reinforces the need for, and the importance of, this legislation.

The only constraint upon a secessionist province that I can discern in the bill is that the act of secession must be negotiated under the Constitution of Canada. It is difficult to accept that the federal government is acting unwisely by insisting that such monumental negotiations, should there ever be any, take place within the law.

• (1800)

The separatists have set the terms of the unity debate for far too long. The Government of Canada has now responded, and I support the response.

A vote of support for Bill C-20 is a vote of confidence in the government's dealings with the threat of separatism in Canada. Each and every Canadian naturally has a stake in the future of the country. Their representatives in Ottawa are now, through Bill C-20, effectively voicing their interests and concerns.

Honourable senators, I turn to the topic of the role of the Senate. Many feel that the Senate has been mistreated by Bill C-20, and that the bill is unconstitutional as it would give the Senate a consultative, as opposed to a determinative, role regarding the clarity of the referendum question, and the clarity of the result. I shall admit to having shared such concerns. I made a point in the second reading debate of voicing those concerns about the treatment of this chamber.

This being said, however, I have reviewed the testimony of the many learned witnesses who testified before the special committee. I am convinced that the role envisaged for the Senate under Bill C-20 is both legal and constitutional.

The Hon. the Speaker: Honourable senators, it is now six o'clock. Is it the wish of the Senate that I not see the clock?

Senator Hays: Honourable senators, I would propose that we give leave not to see the clock.

The Hon. the Speaker: Is it agreed by all senators that I not see the clock?

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Roche may continue.

Senator Roche: At the outset, honourable senators, we must keep in mind that Bill C-20's chief aim is to set the conditions under which the executive would be willing to enter into constitutional negotiations in the wake of a referendum on secession. In this regard, we must acknowledge that, under the current situation, the executive already has this power and does not require anything more than the confidence of a majority of the House of Commons in order to conduct negotiations. Indeed, a constitutional amendment providing for the secession of a province could be presented to Parliament as a *fait accompli*.

If Bill C-20 gave equal weight to the House and Senate in giving permission to the government to enter into negotiations for a constitutional amendment for secession, the Senate would be seen to have an indirect veto over constitutional amendments. We cannot give the Senate a power that it does not already enjoy under our Constitution. At the same time, we cannot fault the proposed legislation for not granting powers to the Senate that it never had.

The Senate must accept the fact that it is in a junior position to the elected chamber on constitutional matters. I accept Professor Hogg's assertion before the Special Committee on Bill C-20 made on June 5 when he said:

...there is no doubt about the constitutional validity of a provision delegating decision-making authority to the House of Commons alone.

Honourable senators, I wish to sum up my argument. With respect to any amendments, I see a special problem. If any amendment passes, the bill would, of course, have to be returned to the House of Commons. In my view, an amended bill risks being rejected by the House. This would be particularly true if an amendment provided a specific role for the Senate that was not originally given by the House of Commons. The risk may also obtain on other subjects. As a result of an amendment on any subject, a legislative impasse may well result with, in the end, the country being deprived of the clarity that Bill C-20 seeks to establish.

In order to make the case for a determinative role for the Senate, the Senate would itself become the focal point of public discussion. In such a circumstance, the Senate would be seen as overreaching. The opponents of the Senate would make the Senate the issue. There are signs of this already in the media. We might well emerge from such a fight not only bloodied, but also bowed. I do not think that we could win such a fight, nor is the clarity bill the right fight for the Senate to make to enhance our role in constitutional affairs.

The role of the Senate in constitutional affairs was established in 1982 when the present Constitution gave the Senate only a suspensive veto in constitutional matters. The overall powers of the Senate do need to be strengthened, but that can only come about by constitutional change and due process.

Bill C-20 is about establishing clarity in a referendum for separation. Other issues ought not to obscure the central aim of this bill. The Senate is not overlooked, for the bill provides that the House of Commons shall take into account the views of the Senate, as well as the provinces and aboriginal groups, in determining clarity.

Bill C-20 takes nothing away from the Senate that we now have. For the good of the country, it is better for us to leave Bill C-20 the way it now stands. The Senate will be heard, and senators will do their job in making sure that we are heard in the determination of clarity. For these reasons, I shall fully support the bill on third reading.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, the honourable senator claims to have read almost all the evidence by witnesses. He also seems to remember the evidence of some people who never took part in a referendum, whether in 1980 or 1995. Senator Roche seems to have been greatly influenced by Professor Hogg. I do not remember, nor does Senator Nolin — and we are the only two members of the 1980 committee, the one which divided our families — seeing Professor Hogg or someone else. Out of all his readings, did the honourable senator note what Claude Ryan said in evidence? Mr. Ryan, Senator Nolin and myself were members of the no committee. I know that what I am saying bothers some of you. We are not only participants but survivors of the no committee chaired by Mr. Ryan. I hope that, out of all the evidence he read, Senator Roche did read what Mr. Ryan, the chairman of the 1980 no committee, had to say.

[English]

Senator Roche: Honourable senators, I always have respect for Senator Prud'homme's views. I can only say that I am bringing to this debate the perspective of a senator from Alberta. Our perspective is that the entire country needs to be protected in the terms of Bill C-20, as I have outlined.

I have known Claude Ryan for 35 or 40 years. Many of his writings and philosophies have deeply influenced me. However, I have not always found myself in total agreement with the honourable gentleman.

Hon. Serge Joyal: Honourable senators, Canada belongs to Canadians —

[Translation]

Canada belongs to Canadians. The proposals I have the privilege of presenting to you this afternoon represent what I feel is most essential as a Canadian who has his roots in Quebec, and particularly as a Liberal. What I am submitting to you today is a kind of political manifesto that reflects my deepest convictions.

[English]

Let me first state unequivocally that I am of the conviction that, when one envisages the termination and dismemberment of Canada, the rule of law and constitutional principles are of paramount importance to prevent social unrest and to protect the rights and freedoms of all Canadians.

Second, I strongly support the general objectives of Bill C-20 that aim to answer the question that the Supreme Court has left to the initiative of the political actors, including defining what constitutes a "clear question and a clear majority" in any future referendum on secession.

Third, after an extensive debate on second reading and having heard the evidence of 20 witnesses at committee stage, the essential elements of Bill C-20 are quite commanding, as are the omissions and unanswered questions that have been brought to light.

• (1810)

Contrary to what happened in the other place, where hundreds of amendments were proposed for no other purpose than to derail the process, we have in front of us a small number of proposals, each of which addresses the very essence of what Canada is: first, the protection of minority rights at the heart of the compromise that made Confederation possible 133 years ago; second, the recognition of the status of aboriginal peoples in any decision affecting their ancestral and treaty rights; third, the essential principle that as a sovereign country, we are one and indivisible; fourth, the direct involvement of all Canadians in any decision that would change or terminate their constitutional rights as Canadian citizens; and, finally, the status of the Senate as one of the national institutions where the federal principle is embodied.

Honourable senators, the total of these five elements is greater than the mere sum of its parts. They speak as a whole to what we are as a country. They are interwoven and permeate the very fabric of our complex nationhood.

None of the proposed amendments would affect the legality of the bill, jeopardize its effectiveness or undermine its essential goals. On the contrary, they would strengthen the legal authority of the proposed bill by providing greater certainty as to its constitutional foundation.

It is on that broad horizon that I would propose to reflect with honourable senators on Bill C-20. In pith and substance, the three clauses of Bill C-20 are simple. They address essentially the determination of the conditions following which a future Canadian government would have to negotiate the secession of a province or a territory. As such, they deal essentially with the process leading to the dismemberment of the country. However, the bill is, in its substance, silent on the fundamental obligations of the Government of Canada to "maintain, at all times, the rights and freedoms of the citizens, the protection of the values of the body politic, the preservation of the sovereignty, security and territorial integrity" of Canada.

During the debate, the government spokesman and witnesses have sustained that the government possesses an unfettered prerogative to initiate any discussions or negotiations leading to the dissolution of the country without any need to get prior authorization, with the only limit being a vote of confidence in the House of Commons. According to this view, there is no constitutional principle that would prevent the government from initiating its own extinction. In other words, the Canadian executive pretends to be supreme over the Constitution. It can negotiate with any province or territory the repeal of the present constitutional order at will.

In my opinion, this view runs contrary to the basic democratic principle that people are the source of all sovereignty and legitimacy of government. This view is also contrary to the explicit statements made by former prime minister Trudeau in 1980 and current Prime Minister Chrétien in 1995 to the effect that the Prime Minister of Canada has no mandate to dismantle Canada.

With respect, I contend that the people are supreme over the Constitution. It is not accurate to maintain that it is the executive, rather, that is supreme over the Constitution.

Honourable senators, I will outline three principles in support of my contention that the Government of Canada, on its own, has no prerogative to seek the dismemberment of the nation.

The first principle was entrenched in our Constitution at the very outset of its creation in 1867, when the three original colonies "expressed their desire to be federally united into one Dominion under the Crown...with a Constitution similar in Principle to that of the United Kingdom, making Canada a new nation."

To quote Sir Wilfrid Laurier in a speech from 1897:

[Translation]

Colony and nation, these are words that in days gone by were not considered synonymous, that were never used to describe both the sovereign power and the dependence of a people.

Canada is a nation. Canada is free and freedom is its nationality.

In 1890:

Here, we form, or we wish to form, one nation composed of the most heterogeneous elements — Protestants and Catholics, English, French, Germans, Irish, Scots — each with their own traditions and prejudices, let it not be forgotten.

Honourable senators, what was the principle on which Canada was founded?

The Canadian federation was founded on the free consent of Canadians and of their elected and appointed representatives.

Although the vote was close, 26 to 22, francophone representatives in the Legislative Assembly of the Province of Canada voted in favour of the proposal. In the partly elected and partly appointed Legislative Council, the vote was 45 to 15 in favour of union. At the next following election, a plebiscite with confederation as its sole theme, the Conservative Party led by George-Étienne Cartier won 45 seats, while the Liberals led by Antoine Aimé Dorion, who were opposed to the proposal, obtained only 20. In the next election, in 1872, the Conservative Party was again re-elected, with a majority of 38, a testimony to voter approval.

The federal union received the approval of the popular vote in Quebec.

It has already been recalled how authorities at the time refused to entertain the request to withdraw from the union submitted the following year, in 1868, by Nova Scotia, thus confirming the continuity of the new union.

When a resolution was introduced 50 years later, in 1917, in the Legislative Assembly of Quebec by MLA Joseph N. Francoeur, calling for the withdrawal of Quebec from the Canadian federation, Premier Lomer Gouin intervened to have the motion withdrawn. He said:

[English]

I wish to make my position on this subject very clear, Your Honour. I believe in the Canadian Confederation. The federal government appears to me to be the only possible one in Canada because of our differences of race and creed, and also because of the variety and multiplicity of local needs in our immense territory....Confederation was not the

result of a whim, nor an act lightly performed, but the result of an absolute necessity. This act was freely accepted by Quebec. Had it not been for Cartier, had it not been for the popular wish of Lower Canada, we would not have had Confederation.

[Translation]

The democratic legitimacy of the federal union was thus reconfirmed 50 years later.

Yet the political debate on the nature of the federal union laid the seed for the interpretation of Canada as the result of a compact between two "nations," one francophone and the other anglophone, and that as a result Quebec may decide on its own to withdraw from that compact.

[English]

This vision of Confederation as a compact is historically and legally untenable.

[Translation]

This "compact theory", which was to give rise later to the two-nations theory, was debated right up to the Supreme Court, where it served as an argument against the constitutional powers of the federal government.

Each time this claim was made, it was clearly rejected by the Supreme Court, the last time quite recently.

This occurred in 1981 with the reference on patriation, and in particular with the courts of Quebec itself, including its appeal court.

Chief Justice Laskin wrote as follows in the 1981 reference on patriation of the Constitution:

[English]

Theories, whether of a full compact theory...or of a modified compact theory, as urged by some of the provinces, operate in the political realm, in political science studies. They do not engage the law...

[Translation]

Justice J. A. Turgeon of the Quebec Court of Appeal wrote the following regarding the same issue:

But none of the decisions turned this theory into a rule of law. A distinction must be made between a "compact" and a "political arrangement". History does not support the "compact" theory... The "compact" theory is a purely political argument that has no legal basis.

In 1982, the Quebec Court of Appeal unanimously rejected the "principle of duality" as an argument in support of Quebec's veto:

However, these distinctions do not confer on Quebec's legislature more extensive powers than those given to the others.

That political interpretation of the constitutional rule to the effect that Quebec joined the federal union on the basis of a compact or a contract it can opt out of unilaterally has always been rejected by the highest courts in the land as being contrary to the legal principles that form the very foundations of the Canadian constitutional order.

If a province cannot opt out at will, it follows that the federal executive branch is not above the law and cannot evade the constitutional order by initiating, on its own, discussions that could lead to the secession of a Canadian province and to the dismantling of the country.

• (1820)

Our second argument against the government's claim that the executive may, on its own initiative, enter into discussions and negotiations leading to the extinction of the unity, integrity and sovereignty of Canada can be found in section 1 of the Canadian Charter of Rights and Freedoms, and in the very purpose of patriating to Canada the amending powers of the Constitution, 1982.

The primary purpose of the Charter is to confer rights, free from and beyond the supremacy of legislative assemblies and federal chambers, thus rendering impossible any breach of these fundamental freedoms.

Second, the Charter confers on Canadians control over the constitutional order of their country.

[English]

According to Prime Minister Trudeau in a statement made in this chamber in 1988, the Charter:

...was meant to create a body of values and beliefs that not only united all Canadians in feeling that they were one nation but also, in a sense, set them above the governments of the provinces and the federal government itself. So, they have rights which no legislative body can abridge, therefore establishing the sovereignty of the Canadian people over all our institutions of government.

[Translation]

Prime Minister Chrétien put it succinctly ten years later in 1992:

[English]

We've given the Constitution to the people of Canada and that's going to be the test of any change in the future.

In other words, it is my view that the executive of our country cannot put itself above the Charter of Rights and Freedoms by entering into negotiations to extinguish those very rights and freedoms belonging to all Canadians. I believe that the

statements of 1988 and 1992 that sovereignty belongs to the Canadian people were right. No government can trade and bargain outside, or against the consent of the Canadian citizens, their rights and freedoms.

The third principle is in the very ruling of the Supreme Court on the secession of Quebec in 1998. What were the questions asked of the court?

The first question was: Under the Constitution of Canada, can the Government of Quebec effect the secession of Quebec from Canada unilaterally? The court answered: No. The court stated:

Quebec could not, despite a clear referendum result, purport to invoke a right of self determination to dictate the terms of a proposed secession to the other parties to the federation.

The second question was: Is there a right to self-determination under international law that would give the right to effect the secession of Quebec from Canada unilaterally? Again, the court answered: No. It stated:

Quebec does not enjoy a right at international law to effect the secession of Quebec from Canada unilaterally.

In my humble opinion, one must draw the following conclusions from those two clear legal answers. First, no law, Canadian or international, can serve as the basis for an alleged right of Quebec to secede from Canada or to sustain that Quebec does have a right to "order" the dismemberment of the Canadian territory.

Honourable senators, what is the legal meaning of the word "right"? According to *Black's Law Dictionary*, a right is:

A legally enforceable claim of one person against another, that the other shall do a given act, or shall not do a given act.

The Hon. the Speaker: I regret to interrupt the honourable senator but his 15-minute speaking time has expired.

Senator Hays: Honourable senators, I would propose that we give leave to allow Senator Joyal to continue for an additional 10 minutes.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Joyal: Thank you, honourable senators.

In clear legal terms, the province of Quebec does not have the right of self-determination that would entitle her to secede unilaterally from Canada, neither according to Canadian law nor under international law. That right does not exist in our Constitution. Clearly and simply, this is the law of the land.

The second conclusion is that no one has a right under the Canadian Constitution, as it stands now, to require that Canada be divided. The Supreme Court could not have stated it more clearly when it said:

Quebec could not purport to invoke the right of self determination such as to dictate the terms of a proposed secession to the other parties.

That is the basis of former justice Estey's statement when he said of Canada:

Clearly, it is not divisible by constitutional means until you amend the Constitution...I think offhand I agree with the 1998 judgment or advisory opinion that it is indivisible, because that is in the present tense.

Honourable senators, that is exactly where there is an essential legal distinction to be made. The proposition that Canada is divisible formed no part whatsoever of the decision of the court. Under the Constitution of Canada, as interpreted by the court, there is no principle of divisibility of Canada. That is the law.

Most commentators simply conflate or fail to distinguish between the absence of a legal constitutional basis for an alleged right to secession itself and the legal mechanism for constitutional change provided in the amending formula. In other words, the present Constitution of Canada embodies the principle that Canada is indivisible. That is the law as it stands now.

Let us not confuse a right and a political obligation. The court, in its wisdom, has seen the trap of jumping too rapidly to one conclusion, that Canada is divisible. The court said of division or secession that:

There would be no absolute legal entitlement to it.

A distinction was drawn between the law of the Constitution, which generally speaking, will be enforced by the courts, and other constitutional rules, such as conventions of the Constitution, which carry only political sanctions.

In other words, the court insists that the distinction between the essential legal rules of the Constitution and the political obligations that can exist to a particular set of facts that challenges the political order must be maintained.

Those political obligations are not subject to court review. They are essentially subjected to the judgment of the tribunal of public opinion. There would undoubtedly be repercussions if the federal and provincial governments would refuse the negotiate the dismemberment of the country, but as the court stated:

...the appropriate recourse in some circumstances lies through the working of the political process rather than the courts.

There is a real danger to confuse the status of the rule of law, as provided in the Constitution, with political expediency.

In our debate on third reading, it was stated:

There is a constitutional right of a province and a constitutional duty in Canada to negotiate secession.

These words were recorded by others who sustained that "our government must negotiate" separation.

The court never gave a legal basis to that political obligation and I submit that to not state the rule of law of the land in such an exceptional circumstance would run contrary to the fundamental obligations of the Government of Canada to maintain the constitutional principle that Canada is indivisible as long as the people of Canada, who are the holders of the sovereignty of the country, have not relieved the government of its essential obligation.

We, as senators, must carefully draw the line between what is legal and what is political, always remembering that the rule of law exists to protect the stability, the rights and freedoms of the citizens and the integrity of the country.

Since the dissolution of Canada or the secession of a province or territory are inconsistent with our current constitutional arrangements, because the Constitution as it stands does not embody a right to secession, Canada is indivisible and will remain so until the Constitution is amended to specifically provide for secession or dismemberment.

The government position is that the court has now held that Canada is divisible. This position does leave open the possibility that the government believes that unanimity is required, but it also opens the door for this or any future government to argue that the 7-50 formula, or even some lesser level of consensus, would be sufficient to destroy our country.

To reconcile the point of view that I support, that no rule of law of the Canadian Constitution recognizes the right to require that Canada be divided, and the government position, I would propose an amendment to Bill C-20.

The amendment does not actually say that Canada is indivisible in the way caricatured by some speakers, encompassing the resort to violence at the extreme. It merely requires the government to act at all times in accordance with the principle of indivisibility subject to Bill C-20. In other words, the Government of Canada will act in accordance with the principle that Canada is indivisible until Canadians decide differently. Such a decision by the Canadian people would have to be expressed in a national referendum.

• (1830)

What is the effect of this amendment? The government's position is that it presently has an unfettered power to negotiate secession. If Bill C-20 is passed as is, the prohibitions in it will only apply once a question made public by the provincial government is deemed to be unclear, or if the answer is found to be unclear. Hence, under Bill C-20 the government will retain an unfettered power to negotiate separation with a province, one, prior to the province ever putting the question and, two, if the response to the provincial referendum is a clear yes.

Honourable senators, the amendment I propose would remove the prerogative of the federal government to negotiate secession with a province, or dismemberment of the country, except as permitted under the act. Canadians could rest assured that no Government of Canada was paving the way to secession with preliminary negotiations prior to a question ever being publicly asked.

Under this amendment, no government of Canada could negotiate secession until three things occur. First, the citizens of a province must express a clear will to secede. Second, the citizens of Canada, as a whole, must be consulted about the proposed secession or dismemberment by a national referendum. Third, the Senate and House of Commons must debate the results of the national referendum and give the government a mandate to negotiate based upon their deliberation.

Why is it necessary to hold a national referendum before the Government of Canada could negotiate a secession or dismemberment of Canada? Some have argued that it would add an undue additional obstacle to the resolution of the political deadlock in which Canada would find itself. To me, such an argument does not stand up to the fundamental democratic principle, as stated by the Supreme Court, that the "Constitution is the expression of the Sovereignty of the people of Canada...it lies within the power of the people of Canada to effect whatever constitutional arrangements are desired within Canadian territory...." The argument that it would be difficult is insufficient reason for abandoning the democratic principle that we have cherished since before we were a country.

Has the Supreme Court ruled out a referendum? The answer is no. The Supreme Court stated that the governments involved in such negotiations "may, of course, take their cue from a referendum."

A national referendum is certainly consistent with the fundamental democratic principle that Canada belongs to Canadians — not to the House of Commons, not to the Senate, nor to the government of the day. Canada belongs to each and every citizen of this country. As Thomas Paine stated 250 years ago:

The authority of the people is the only authority on which Government has a right to exist in any country.

This is the essence of our democracy. No Canadian government has the legal, moral or political authority to dismantle the country, nor ignore or disregard the sovereignty of the people of Canada.

The ultimate power on the process that a country will cease to exist resides in the citizenry and governments cannot do certain things without their consent.

That is the principle that John Locke well understood almost three centuries ago, and it is still a compelling force in a democracy such as ours.

If the Canadian government was to embark on the process of fundamentally altering the present constitutional order, an initiative through which the rights and freedoms of each Canadian would be terminated, be they minorities or aboriginal people, the principle of democracy upon which our entire system of government is built and animated would require it to go back to the very source of its legal existence and legitimacy — the Canadian people.

Those fundamental principles of democracy are part of the political statement for which the Liberal Party of Canada stands. To ascertain them, let me quote the public letter that the then leader of the opposition, Mr. Jean Chrétien, said on August 17, 1992, to then prime minister Brian Mulroney on the eve of the constitutional conference that led to the Charlottetown Agreement.

Canadians want an agreement that focuses on what unites us not on what divides us. Canadians also want to decide for themselves to approve an agreement. And because the Constitution belongs to the people, the Liberal Party wants any agreements to be ratified by the people in a national referendum.

If, according to all democratic norms, the people of Canada would have had to ratify a substantial change that would affect the Constitution as it now stands and that belongs to them, how could they not have to authorize their government to initiate the process that would lead to the extinction and dissolution of Canada as one country?

We have now reached, honourable senators, a crucial moment vis-à-vis the options facing us in our evolution as a united country. The debates that have taken place in this house of Parliament have clearly brought to light two visions on the nature of our country. The first one, defended by some, can be summarized in the four following points.

First, Canada is divisible in legal terms according to the reading of the Supreme Court ruling.

Second, the political culture generally accepted, according to them, is to allow the secession of a province that expresses clearly its will to leave. We are a sort of consensual federation.

Third, the government of this country has an embodied prerogative to initiate discussion of secession or division of the land on its own without any prior consultation or authorization by the Canadian people and would be bound to negotiate secession if so desired by a clear majority on a clear question of secession through a provincial referendum.

The Hon. the Speaker: I regret to inform the Honourable Senator Joyal that his speaking time has expired.

Senator Joyal: Honourable senators, may I have leave to continue?

Senator Hays: May I ask Senator Joyal how much longer he thinks he will be?

Senator Joyal: Five minutes.

Senator Hays: Do we agree to give him a further five minutes, honourable senators?

Hon. Senators: Agreed.

Senator Joyal: Thank you, honourable senators.

Fourth, the result of those assumptions gives effect to the theory of the two nations; the concept that Quebecers form "a nation" or "a people" and that as such they have an unfettered capacity or "right" to leave Canada whenever they so choose.

The other vision can be stated on four counter grounds. First, Canada is one and indivisible. Neither the Constitution acts nor the Supreme Court ruling of August 20, 1998, recognize the right of anyone to divide or legally request the dismantling of the country.

Second, the political stand always defended by successive prime ministers affirms clearly that Canada is one country from sea to sea, with two official languages, equal in rights and status, united under a shared set of values and institutions.

Third, the federal government has the essential role to develop and enhance the rights and freedoms equally benefiting all citizens of the country through national institutions where the federal principle is embodied and valued.

Fourth, Canada belongs to each and every Canadian. Canadians constitute a sovereign people. They are the sole and unique masters of the destiny of their country and the only ones to hold the key to its future as one united country.

If one accepts the first vision, Bill C-20 should remain unamended. If one proposes to bring Canada to a further step of nationhood, Bill C-20 must be amended to confirm our maturity as a united country.

Honourable senators, when the political debate or political culture tends to be divorced from the clear recognition of the constitutional principles embodied in the rule of law, it creates alleged legal positions like the "compact theory," like the theory of the two nations, like the theory of the veto of Quebec, or like the constitutional right to negotiate secession. These unfounded positions serve only to exacerbate tensions, to put unbearable stress on the stability of our country and to hinder the resolution of our profound differences.

Only the full recognition of the fundamental principles of our democratic constitutional order will guarantee that a solution that is commonly acceptable to everyone involved in determining the future of the country is achieved. The Government of Canada has

the duty to uphold the rule of law, which guarantees to all Canadian citizens a stable, predictable and ordered society, and the duty to maintain the continuity of the Constitution of Canada, which guarantees the continued existence of the rights and freedoms of all Canadian citizens.

We shall come soon to cast our final vote on the most important piece of legislation since the creation of Canada 133 years ago; a piece of legislation that recognizes that our country, as it now stands, can be dismembered.

Honourable senators, let me remind you what Edmund Burke stated in Bristol in the late 18th century on the very obligation of each member of Parliament, as we are, as senators:

Your representative owes you not his industry only, but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion.

This is essentially why we have been called to this place — to exercise our judgment, in our soul and conscience, over the future of our unique country in which lie those freedoms and the hopes of so many millions of human beings.

• (1840)

MOTION IN AMENDMENT

Hon. Serge Joyal: Honourable senators, that is why I move:

That Bill C-20 be not read a third time, but that it be amended:

(a) on page 2, by adding the following after line 33:

"1. Subject to this Act, the Government of Canada must act at all times in accordance with the principle that Canada is one and indivisible.";

(b) in clause 3, on page 5, by adding the following after line 24:

"(2) Where it has been determined, pursuant to section 3, that there has been a clear expression of a will by a clear majority of the population of a province that the province cease to be part of Canada,

(a) the Government of Canada shall consult the population of Canada, by national referendum, about the proposed secession; and

(b) after the national referendum, the Senate and the House of Commons may, by joint resolution, authorize the Government of Canada to enter into negotiations to effect the secession of the province from Canada, subject to the terms and conditions set out in the resolution."; and

(c) by renumbering clauses 1 to 3 as clauses 2 to 4 and subclause 3(2) as (3), and any cross-references thereto accordingly.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, pursuant to the order on the vote, I suggest that the amendment of Senator Joyal is one of those amendments that will be voted on Thursday of this week.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I do not know how long we are going to sit this evening, but would it be possible, since we have only two days of debate left, for us to have a copy of these amendments during the evening? This could change what those who have not yet spoken on third reading will have to say. Otherwise, we will have to wait for tomorrow and will then have only one day left to debate this bill. I know that this is hard on our employees — our very faithful employees — but if it is possible, I personally would appreciate it.

The Hon. the Speaker: Honourable Senator Prud'homme, there is no problem, the honourable senators will have the amendments distributed to them.

Senator Prud'homme: I thank you, Your Honour.

Hon. Gerald J. Comeau: Honourable senators, first of all, I should like to address the new senators who have been appointed in order to make sure that Bill C-20 gets through.

In a parliamentary government system such as ours, it is the duty of the opposition to examine very carefully any legislation introduced by the government. The first reaction of any senator is to support the initiatives of his government. This is natural in Canadian democracy. Yet we must never lose sight of the fact that the Senate was created to represent the interests of our regions and of our minorities, as well as to turn down bad legislation referred to it by the House of Commons. Our primary duty is to our country and not to our political party.

I would encourage the new senators to read up on this. The Library of Parliament can recommend some excellent reference works to them. They must find out about their new duties as parliamentarians and about their predecessors. They will find that the most respected parliamentarians are those who have always made decisions in total keeping with their constitutional duty. These honourable senators have taken a solemn oath to their country. Although they may feel beholden to the party of their choice — and there is nothing wrong in that — their civic duty must be performed with loyalty. Honouring that, they will never be wrong.

Bill C-20 is the kind of legislation that requires such reflection. The honourable senators must read the bill very

carefully and forget for a moment that they are on the government side. They must set aside the opinions of lawyers and experts. They must ask themselves if this bill makes sense. Honourable senators, think about the consequences and ask yourself if this bill is in the best interests of your country. It is an act under which the House of Commons alone, without consulting Canadians, can make a ruling and authorize cabinet to negotiate the end of Canada. This is the country of your ancestors, of your children and grandchildren. This is a serious issue.

[English]

I have heard some parliamentarians in this chamber say that they support the bill because legal experts have told them that the Supreme Court has ruled that this is so. With all due respect, the Supreme Court of Canada did not rule that Canada can be divided. The court certainly did not decree that we should provide the legal means to break up our country. I invite all honourable senators to read the text of the decision.

Suppose Mr. Bouchard were to hold a successful referendum today and Bill C-20 is the law of the land. The authority to break up the country for all intents and purposes would be decided by Ontario and Quebec members of Parliament who make up 82 per cent of the government's members. The Prime Minister, the Minister of Finance, the Minister of Intergovernmental Affairs, the Minister of International Trade and a host of other Quebec cabinet ministers — all Quebec cabinet ministers — would be negotiating Quebec's secession while they represent Quebec ridings. Is this not a conflict of interest?

This bill declares that the Canadian population has no say in the matter, that they should trust their elected politicians. I do not believe that Canadians in the last election authorized their members of Parliament and Stéphane Dion to negotiate the breakup of our country. The question is far too important.

Honourable senators, elections can produce interesting and unintended results. Who could have imagined a couple of decades ago that a group of separatists could become Her Majesty's Loyal Opposition, only to be replaced in the next election by a protest party whose winning campaign slogan was an "X" through the faces of prominent Quebec politicians? Those who fantasize that the Liberals will always be in power are mistaken. Sooner or later, I can assure honourable senators, Canadians will vote for change.

The combined vote of the Bloc and the Reform in the 1997 election amounted to approximately 31 per cent of the vote, and the Liberals formed the government with less than 39 per cent of the vote. This is within 8 percentage points.

Regional and strategic voting can produce strange results in our first-past-the-post system. This is how the Bloc, with 13.5 per cent of the popular vote in 1993, formed the official opposition with 54 members, while the Tories, with 16 per cent of the popular vote, wound up with two seats.

Similar to the last two elections, the electorate may well continue to vote for regional parties in the next election. This could result in a splintered Parliament with no clear majority, as in Italy.

Honourable senators will recall that the current government was formed with 39 per cent of the vote of those Canadians who voted. It is therefore not beyond the realm of possibility to imagine a perverse scenario whereby the Reform Party, the western equivalent of the Bloc Québécois, would agree to form a coalition government with the separatists. Manning himself has said that he wants to reform the federation, and that his ideas would be attractive to Quebecers, if they would only listen to him.

• (1850)

Manning, who has built a party on what divides us as Canadians, cannot risk the loss of his western base of support by seeking unity and reconciliation. Given his historical animosity toward Quebec in order to create his base of support, Manning knows full well that Quebecers will never vote directly for him. The means to accomplish his dream could well be to form a coalition with the Bloc and orchestrate the winning conditions needed by Bouchard. This would not be terribly difficult.

The techniques of provocation are fairly straightforward for one who is prepared to resort to such measures. All you have to do is look under "Politics of Division 101!" Recall the X across the Quebec politicians' faces. Imagine the reaction if one of Manning's surrogates were to orchestrate something similar with René Lévesque's face. If a snap election referendum is called, a few extra juicy provocations are engineered, and a quick Commons vote discussed to declare that the referendum results meet the terms of Bill C-20, and away we go.

Regardless of the question, this bill would authorize Manning and Duceppe to negotiate the secession of Quebec, and Manning would no longer have Quebecers to stop him from becoming the Prime Minister of his new Canada. It would be just a matter of dividing the spoils.

I invite our new senators to read some of the public comments of Reformers to get an appreciation of their sentiments on national unity issues, minority language rights, the position of blacks, of aboriginal rights, and of Quebecers. Read the comments of the separatists also. In order to gain preferential market access to the newly formed countries, we should expect that a number of countries would be quick to sponsor Quebec's bid for a seat at the United Nations. The same courtesy would no doubt be extended to the remainder of what was once Canada, should it decide to form a new union. The exchange of ambassadors would not take long.

President Lucien Bouchard of the republic of Quebec and President Preston Manning of the united provinces of English Canada somehow does not sound appealing. Some talk of finally getting back at the separatists for two agonizing referendums and

putting us through years of uncertainty. To others, it creates the perception that the government has placed a secure roadblock on the secessionist movement. The very name, clarity, sounds nice. If such was the case, I would be there promoting the virtues of Bill C-20.

Quite the contrary. Bill C-20 plays right into the hands of the secessionist forces by dividing the federalist forces. The oldest and most successful warfare tactic is to divide and conquer. Bouchard is playing Chrétien and Dion like a fiddle, and it's a very bad tune.

Honourable senators, like a magnificent building, it took visionaries to build Canada. Any simpleton can tear down a great building, but it takes a first-class carpenter to build it. Let us not provide the tools to those who would tear down our nation.

The Hon. the Speaker *pro tempore*: Do other senators wish to speak?

Hon. Nick G. Sibbeston: Honourable senators, I am pleased to give my perspective of Bill C-20 from the Northwest Territories' point of view.

The view from the Far North on Bill C-20 and what it deals with — the federal government's strategy or plan on how it will deal with a province's secession initiative, should such occur — seems very remote and far from our reality. We experienced division, a mild form of secession, within Canada in 1999, when Nunavut was created. We in the western part of the Northwest Territories experienced many feelings about half of our territory going "its own way" and becoming an entity unto itself.

We had been together as one territory since 1870 when the Dominion of Canada bought what was then Rupert's Land from the Hudson's Bay Company for 300 British pounds. Indeed, the history of our country is in large measure the extension and creation of provinces from the land originally encompassed in Rupert's Land in the Northwest Territories.

We in the Northwest Territories know something about division in the Canadian context. While I appreciate that secession of a province is something more serious, nevertheless it is worth pointing out that, in our country, we can divide and create territories and provinces in a rational, democratic and peaceful way.

The Northwest Territories, Yukon and Nunavut are territories. We are not provinces. Constitutionally, we are different from provinces and generally do not have the same status and role when it comes to constitutional matters. Our role in the clarity bill is very limited. We are not mentioned in the preamble, and are only mentioned in clause 1(5) as well as clause 2(3), where it is provided that the House of Commons will take into account any formal statement or resolution of the government or Legislative Assembly of the territories in regard to the clarity of the question and sufficiency of a vote.

A point is raised by Senator Joyal that, according to the Interpretation Act, a province is defined to include the territories. While that is true, section 3(1) of the application section states that the Interpretation Act applies to every federal statute, "unless a contrary intention appears." Because there are specific references in the clarity bill to "any province or territory," in clauses 1(5) and 2(3), it would seem that the territories are explicitly referred to whenever a section is intended to include them. This would seem to suggest that the intention was not to include the territories in those sections where they are not specifically referred to. This established a "contrary intention" to the automatic application of the definition of "province" in the Interpretation Act.

The clarity bill does not apply to the territories as regards their ability or jurisdiction to hold referendums on secession. That is just as well, because the Northwest Territories, for one, would never consider such a referendum. We are happy campers within Canada. We have had reasonable relations and dealings with the federal government and other provinces. We have a unique consensus style of government, and we are on the road to eventual provincehood. We have obtained responsible government and have most of the powers of provinces, except control of our natural resources. We still derive a large portion of our annual budgets from the federal government, and in the foreseeable future we hope to be a "have" territory when all the mining, oil and gas development come to fruition within the next decade.

I have found the discussions, the witnesses' presentations, and the various positions taken by senators quite fascinating. I have attended almost all of the committee hearings. I am convinced more than ever that the process outlined in the clarity bill amounts to the delineation of a power that is executive in nature.

Much has been said about the process within which the House of Commons will have the central role in determining whether the question is clear and whether there is a clear majority. I understand and fully support this approach. The fact that the government can already take the initiative to deal with the issue of clarity in a referendum without this bill makes it clear to me that it is perfectly within its political mandate and within its constitutional power to govern accordingly.

The process outlined in the bill where the federal government, on being faced with a referendum on secession, refers the matter to the House of Commons and that body in turn seeks the views of the Senate, the provinces, the territories, the aboriginal peoples, and others, on the clarity of the question and sufficiency of a majority vote, is a reasonable approach. It is very much a political process. It makes sense that the House of Commons is the body to which the executive turns to seek a vote of confidence before it embarks on negotiations on secession.

It has been argued by some senators that, because we are not being given the same role as the House of Commons, our constitutional powers are somehow reduced. Honourable senators, we are not elected. I know my role as a senator is to

review and deal with legislation. In that regard, we are equal to the House of Commons, except for initiating money bills. However, the House of Commons is an elected body, and the cabinet or executive has a mandate from Canadians to govern, to act wisely and expeditiously on political matters. The cabinet makes political decisions every day. Surely, the Senate is not involved; surely, we do not expect to be involved, or even consulted. The fact that the secession issue is more important than ordinary government matters does not of itself give the Senate the right to a veto on the resolution of the government and the House of Commons in this matter.

• (1900)

It is my view that Parliament has the constitutional authority to enact Bill C-20 as it is drafted and that the Senate, in supporting this bill, is not in any way diminishing its constitutional powers or reneging on its traditional responsibilities.

I turn now to the issue of aboriginal peoples and the process outlined in the bill. There are three circumstances set out in the bill in which aboriginal peoples will be consulted. The first two are outlined in clauses 1(5) and 2(3), when the House of Commons makes a determination of the clarity of the question and when it makes a determination on the sufficiency of the majority vote. In these instances, the House of Commons will seek the views of representatives of the aboriginal peoples of Canada, particularly those in the province proposing secession.

The third opportunity will arise further along in the process, after the House of Commons has determined that the question is clear and the majority is sufficiently large to embark on the negotiating process. Clause 3(2) provides:

No Minister of the Crown shall propose a constitutional amendment —

— unless it addresses, among other things —

— the rights, interests and territorial claims of the Aboriginal peoples of Canada...

In my view, those three provisions in the bill provide for sufficient involvement by the aboriginal peoples in the secession process.

In addition to these provisions, the recognition of aboriginal rights in the Constitution and the provision for a constitutional conference in section 35.1 thereof guarantees that aboriginal people will be involved throughout the secession process. Section 35.1 would trigger a conference should there be an amendment to Class 24 of section 91, which is the federal government's jurisdiction over Indians and lands reserved for Indians, or to section 25 of the Constitution Act, 1982, which deals with treaty rights and other rights of aboriginal peoples dating back to the Royal Proclamation of 1763 and rights achieved through land claim settlements or any rights that may be so acquired. These provisions are extensive in ensuring that aboriginal peoples will be involved.

Section 35.1 is very clear in its guarantee to aboriginal peoples. Should any of these rights be affected in any proposed constitutional amendment, the Prime Minister must convene a constitutional conference and invite representatives of the aboriginal peoples. Aboriginal peoples live in every province and territory and, therefore, without doubt, the secession of any province from Canada affects aboriginal rights and their participation is guaranteed.

I believe the provisions in the bill with regard to aboriginal peoples go as far as is constitutionally permitted.

Mr. Phil Fontaine, the National Chief of the Assembly of First Nations, said as much, I believe. He is of the same view and is supportive of the bill's passage.

I have heard the amendments proposed by my colleague Senator Watt. While my sympathy goes out to him, I do not believe that the amendments he has proposed are appropriate or constitutionally valid.

To explain, Mr. Dion has stated that the bill follows closely the *Reference re Secession of Quebec*. The first of Senator Watt's amendments deals with the sixth paragraph of the preamble of the bill, which reflects the statements contained in paragraphs 84, 88 and 89 of the secession reference dealing with the requirements for an amendment to the Constitution as well as with what the Supreme Court calls "parties to Confederation."

Paragraph 88 states:

In Canada, the initiative for constitutional amendment is the responsibility of democratically elected representatives of the participants in Confederation.

The court refers to provinces and the federal government as those parties to Confederation. There is no mention in these paragraphs of the aboriginal peoples of Canada.

Therefore, adding the involvement of aboriginal peoples to this paragraph of the preamble would be inaccurate in that it purports to give aboriginal peoples a role that is not presently provided for in the Constitution or suggested by the Supreme Court reference.

Senators know my views as I have expressed the hope that in my lifetime the Constitution will be amended to recognize and provide for First Nation governments and other aboriginal groups to be recognized as a third level or order of government and that they will have the same status and role as provincial governments and the same ability to amend the Constitution. We are not there yet, but I am hopeful that we shall be in my lifetime.

The second of Senator Watt's amendments deals with clause 3(1) of Bill C-20. This clause focuses on constitutional amendments. The margin note in the bill says "constitutional amendments." Senator Watt would include aboriginal peoples in

negotiations leading to an amendment of the Constitution. Again, this is not provided for in the secession reference.

While I wish it were possible, the constitution presently does not provide for aboriginal peoples to be a party to negotiations at this level of the amendment-making process. Section 35.1 provides for a constitutional conference to which aboriginal peoples are to be invited. However, section 35.1 does not purport to give aboriginal peoples access to the amending formula itself. Aboriginal peoples do not have a veto in the event the negotiations do not go their way. They are not part of the constitutional amending process. Therefore, such an amendment would not respect the existing constitutional reality and would give aboriginal peoples false hope and false illusions of their rights in the amending process.

Honourable senators, for all these reasons, I shall not be supporting any amendments to this bill. I support the bill as it stands and I trust the political wisdom of the Prime Minister in this very difficult matter.

Hon. Lowell Murray: Honourable senators, I rise to support the amendments proposed by Senator Watt last Thursday. At the same time, I should like to indicate, although I shall not be dealing with them in any detail, that I also support the amendments put forward earlier today by Senator Gauthier and by Senator Joyal.

Some colleagues who support these and other amendments do so from a position of principled support for the bill itself. That is not my position. As I indicated during debate on second reading and during our deliberations in committee, I am opposed to this bill in principle. Nevertheless, the issues raised by these amendments are, as Senator Joyal so eloquently reminded us this afternoon, defining issues for Parliament and for Canada, and we cannot be indifferent to them whatever our stand on the principle of the bill.

I believe that the question raised by Senator Watt's amendments is whether the parties to the amending formula — the federal Parliament and the provinces — could simply hand over constitutional responsibility for Quebec aboriginal peoples and their lands to some new jurisdiction without the consent of those aboriginal peoples. I believe the answer to that question is no.

It would have been helpful, reassuring and clarifying had the Supreme Court of Canada pronounced on this issue. It did not do so. It did not do so because the federal government specifically asked the court not to do so. It is quite disingenuous for the government and its supporters now to justify the exclusion of aboriginal rights from Bill C-20 on the basis that the court did not deal with the issue.

• (1910)

There are, of course, references to aboriginal rights in the Supreme Court advisory opinion. For example, at paragraph 82, the court says that the prosecution of these rights "reflects an important underlying constitutional value."

At paragraph 96, the court refers to:

...linguistic and cultural minorities, including aboriginal peoples, unevenly distributed across the country who look to the Constitution of Canada for the protection of their rights.

If clarity were the government's motivation, this bill should have confirmed that the constitutional relationship between the aboriginal peoples and the federal Crown and Parliament cannot be changed without the consent of those peoples. Instead, I regret to say that during this debate the government has created more uncertainty about the role and rights of aboriginal peoples in any secession negotiations.

During debate at report stage in the House of Commons, the government accepted, and the Commons incorporated into the bill, two amendments that would include aboriginal peoples in the focus groups whose views would be taken into account by the House of Commons when considering whether the referendum question, and the majority in favour of it, are clear. The Assembly of First Nations proposed those amendments. However, the government rejected a third amendment that would have stipulated that the aboriginal peoples be included in the secession negotiations referred to in clause 3(1), where only the federal government and the provinces are now mentioned.

They rejected that amendment for reasons that I have never seen or heard fully explained. That is what I mean when I say that there is more uncertainty about the role and rights of aboriginal peoples now than when this parliamentary debate started. I believe there is a sense in which it can be said that their position is weaker than it was.

Senator Chalifoux, in her speech of Thursday, June 22, 2000, placed on the record the text of the amendments to Bill C-20 already agreed to by the government. She also cited relevant sections of the Constitution Acts, 1867 and 1982. Where I respectfully part company with her is in her conclusions. For example, as reported at page 1743 of the *Debates of the Senate*, she stated:

In determining the clarity of the question, or what constitutes a clear majority, the aboriginal people of the province will be consulted.

Later on the same page, she says that the amendments "now require consultation with our people."

Our friend Senator Sibbeston has just made, I think, the same mistake in his interpretation. I am sorry, but those amendments do not require consultation. They require only that the House of Commons "take account of any formal statements or resolutions by the representatives of the Aboriginal peoples of Canada, especially those in the province whose government proposed the referendum," in addition to taking into account those of political parties, governments, legislatures, the Senate, "and any other views it considers relevant."

Needless to say, there is a big difference between an obligation to consult, which is still not provided for in this bill, and an

obligation to "take account" of any formal statements or resolutions.

Senator Chalifoux speaks, again as reported at page 1743 of the *Debates of the Senate*, of the two amendments accepted by the government as providing for "participation and consent" of aboriginal peoples. With great respect, those amendments provide for neither participation nor consent. This is precisely the deficiency that would be corrected by the amendments suggested by Senator Watt.

Mr. Dion and the supporters of this bill have in effect acknowledged the practical limitations of the amendments to which they agreed. They have, therefore, fallen back on section 35 of the Constitutional Act, 1982. Senator Chalifoux's interpretation of that section is that "no proceeding, procedure or institution can affect those rights, positively or negatively, without the full, equal and meaningful participation of the First Nations." I believe that I heard much the same interpretation given to it by Senator Sibbeston in the speech that he has just delivered. Again, I am sorry, but section 35 says nothing about "full, equal and meaningful participation of the First Nations."

Senator Lynch-Staunton: That is right.

Senator Murray: It says that the Government of Canada and the provincial governments "are committed to the principle" that before any amendment is made to various sections affecting the aboriginal peoples — and Senator Sibbeston mentioned those sections — a first ministers Conference must be called, and representatives of the aboriginal peoples of Canada must be invited "to participate in the discussions on that item."

Senator Lynch-Staunton: That is all.

Senator Murray: Does section 35 of the Constitution Act, 1982 provide adequate guarantees for the aboriginal peoples of Quebec, who would be most directly affected by any attempt at secession? It certainly guarantees them a voice. However, it does not make them parties to the negotiations, still less does it require that they consent to any secession resolution that directly affects them.

I note in passing that section 35 is not to be found in Part V of the Constitution, the procedure for amending the Constitution of Canada. It is to be found, rather, in Part II, rights of the aboriginal peoples of Canada. This leads me to believe that on the basis of what we have heard, on the basis of the hypothetical situation that we are contemplating in this bill, that some greater certainty is needed to protect their rights in any such negotiation.

I also point out that during the committee hearings, Mr. Dion could not bring himself to say that the consent of the aboriginal peoples would be required for any change in their constitutional status. No matter how often or how pointedly the question was put to him, he would not answer. At least, he would not give the answer that I think he should have given and that I think the aboriginal peoples of Quebec and of Canada are entitled to hear from the responsible minister.

In Bill C-20, clause 3(1) stipulates the federal and provincial governments as parties to the negotiations. An amendment that would have added aboriginal representatives as full participants was rejected by the government before it could be presented to the Commons.

Earlier today, Senator Sibbeston stated that the role of the aboriginal peoples as contemplated in this bill is as far as the Constitution permits. I think that is a curious and, I say it with respect, a rather dangerous doctrine for an honourable senator to take, especially one who is, as we all know Senator Sibbeston is, a champion of the rights of aboriginal peoples. I say further that it is a rather narrow and legalistic approach to the situation. I say further that it is inconsistent with the view that he and many other senators in this place took at the time the Nisga'a bill was going through. It was a liberal and generous interpretation of aboriginal rights in British Columbia. It seems to me now that they are taking an excessively restrictive and narrow view of aboriginal rights in Quebec.

Senator Lynch-Staunton: Exactly.

Senator Murray: Senator Sibbeston also mentioned quite correctly that Grand Chief Fontaine of the Assembly of First Nations, who had proposed three amendments when the bill was before the House of Commons, was in the end satisfied that the Commons had passed two of his amendments. He was satisfied to see the bill go forward, even without the third amendment. Senator Sibbeston is quite correct in telling us this.

I find that position by Grand Chief Fontaine somewhat at odds with the position he took in the letter that he sent to me, and I think to all honourable senators, concerning his amendments. While he spoke of the need for consultation in the early stages of determining the clarity of the question and the size of the majority, I thought that he attached special importance in his letter to what would happen afterwards to the negotiations. He said that their participation and consent must be recognized and affirmed in Bill C-20.

• (1920)

The First Nations peoples of Canada, including those living in Quebec or any province proposing to secede, must be part of the consultation process which will determine both the clarity of the question and the appropriateness of the voting majority. Even more importantly...

I draw honourable senators' attention to those words.

...the first peoples of Canada must be full participants with the federal government and the provinces and territories in any negotiations which might take place after an acceptable referendum process.

I point out the words of Chief Fontaine, not to drive a wedge between him and other aboriginal leaders, but to make it clear on the public record that, though he has been a spokesman for the aboriginal peoples in Quebec, some in Quebec take a rather different view on this issue than does Chief Fontaine.

[Senator Murray]

In his speech last Thursday, Senator Watt referred to the analysis prepared for the Privy Council Office by Professor Buchanan. Mr. Buchanan points out that the court's position "does not explicitly identify the native peoples of Canada or Quebec as being parties to the negotiations." He alludes to section 35, but says that it "is compatible with merely allowing representatives of native peoples to voice their concerns over the negotiations, without giving them any decisionmaking authority in the negotiations." I state for the record that this document of Professor Buchanan was prepared for the Privy Council Office. As for the fiduciary obligation of the federal government, relying on this as the key protection can be read as allowing a "paternalistic" mode of fulfilling the obligation — "having the Canadian government speak for the native peoples rather than allowing them to speak for themselves at the negotiations." This, he said, quoting the intervenor for the James Bay Cree, "would be to perpetuate one of the evils of colonialism: treating native populations as if they were the property of others to be moved about or exchanged among white governments without their consent."

This point was captured quite frequently during the committee deliberations of Bill C-9, the Nisga'a bill. As Senator Sibbeston pointed out on February 16, the interests of the federal government and those of the aboriginal peoples are not necessarily identical.

The federal government has never given anything away to native people. They do not have a history of jeopardizing their own interests. Trust the minister. Trust the government that they have looked after the federal interests.

Senator Gill posed the question during second reading of the Nisga'a bill, at page 558 of the *Debates of the Senate*: "What is the point of having rights if we cannot exert them?"

The amendment proposed by Senator Watt would achieve what Senator Chalifoux incorrectly claims is done by section 35, that is, the "full, equal and meaningful participation" of the First Nations, in particular the aboriginal peoples of Quebec, in any secession negotiations. Without this amendment, Bill C-20 would treat the First Nations as just another focus group. With the amendment to Bill C-20, the First Nations are full participants.

As Senator Sibbeston suggested, other participants, including the federal government, will look after their own interests. Who is to protect the interests of the aboriginal peoples of Quebec? Nobody but the aboriginal peoples of Quebec can protect their interests, but first we should ensure that they have the opportunity to exercise their rights.

Finally, honourable senators, a few months ago there appeared a new book, *Canada's Founding Debates*, excerpts from the debates held between 1864 and 1873 in the colonial legislatures from Newfoundland to British Columbia and in the constituent assembly of the Red River Colony. This book is a wonderful addition to the historical record that for most of us consisted until now mostly of the Confederation debates in the United Province of Canada. In the debates of the British Columbia Legislative Council of March 11, 1870, I came across this statement by a Mr. E.G. Alston:

I am not disposed to regret the occurrence of the difficulty in the Red River, for it will teach the Canadian government, and all governments, that though you may buy and sell territories, you cannot transfer the human beings therein, like so many serfs and chattels, to a fresh allegiance with impunity; that the consent of the people must first be obtained; and that though the soil may be sold, the soul is free.

I must confess that, before reading the 1870 debates from British Columbia, I had never heard of Mr. Alston. However, 130 years later, his words ring clearly and eloquently to the issues raised by Senator Watt's amendments.

Some Hon. Senators: Hear, hear!

Hon. Ione Christensen: Honourable senators, the presentations on third reading of Bill C-20 have been wide-ranging, demonstrating the depth and wisdom reflected in this place. In addressing Bill C-20, we must, first and last, live with our final actions. This presentation is personal, following my journey through the evaluation, the study and finally coming to terms with the course of action that I must take.

When Bill C-20 first went to the other place and before I read it, I thought "what a great idea." I agreed with the need for clarity, a clear question and a clear majority. It all made sense and it was something that I was proud to support. Then I read it and I said to myself, "But where is the Senate in all this? At such a critical time, when secession would be on the verge of reality, when we have no idea what the makeup of the other House might be, where was the safety valve? Were we really being asked to exclude half of the Parliament from the most critical part of the process, the clear question and the clear majority? These triggers set everything else in motion."

I am not a very sophisticated politician nor a constitutional analyst. Yet, supporting this bill would be breaking my oath of office. Is that not what oaths are all about, to be true and loyal to the office to which you are asked to serve? I have taken a number of oaths for very important offices. I have always taken them seriously.

The Senate is an inseparable part of our federal bicameral system. I accepted the appointment of senator to try and play a part in promoting good legislation and to represent my region, the Yukon, in the most honourable way that I could.

I am a realist. Perfect bills are few and far between. I can live with that. The elected house can always make amendments down the road if needs are not met. The role of the Senate is to give a breathing space, to allow the public to catch up with what is happening. The role of the Senate is to scrutinize each bill, highlighting the weaknesses and, where practical, making amendments. I can accept differences of opinion and respect others' views, but I do have an inherent instinct for what is right and what is wrong and I have always followed that instinct. It has never let me down.

Every person who comes to the Senate brings a lifetime of experience, a lifetime of making difficult decisions and evaluating issues. Some of us may be new senators, but we have not come this far by taking unconsidered action.

I have tried to rationalize and find ways of supporting the bill. I want to support Bill C-20, but I always return to the instinctive knowledge that I cannot abandon my obligation as a senator to the Senate. If this were just my interpretation, I would have long since changed my position, but I am not alone. There are others in the Senate and other places with deep roots in such issues who agree.

In analyzing many of the concepts raised during the review of this bill, I have concluded that there are no right or wrong arguments, only many opinions and options to consider in reaching the ultimate goal, a blueprint for dealing with the most difficult decision on the process to follow should any province of Canada express, through referendum, a desire to separate.

The options that are to be used should be spelled out: the rights of the aboriginals in secession negotiations, the rights of francophone minorities outside Quebec, the process for dealing with the constitutional indivisibility and the reality of political divisibility, the formula for secession negotiations, and whether the clear question and the clear majority should be set out before or after the referendum. All these issues beg for clarity and closer scrutiny in this bill.

• (1930)

For me, this causes very personal agony. Each of us interprets our oath and our duty in our own way. I do not ask others to accept my interpretation, only to respect it.

Bill C-20 in itself does not exclude the Senate. It would only be after I voted for it that the exclusion would happen. It takes an act on my part for Bill C-20 to execute the exclusion. The Senate must do it itself.

As Justice Willard Estey observed:

How is it that Bill C-20 has survived its unconstitutionality when it has effectively and indirectly undermined the concept of bicameral Parliament? Bill C-20 has put one half of bicameral power in the invidious position of losing its status in the general operations planned in this bill the moment that body, the Senate, signs the proposed legislation.

He further emphasized his point with this graphic analogy of this process to the insect that commits suicide. He said:

...there is a funny little animal: when it begins to think and grow up, it kills itself.

Professor of Political Science David Smith from the University of Saskatchewan observed:

...to excise the Senate from consideration of the referendum question is to silence the expression of Canadian opinion....To abandon bicameralism at the moment the Canadian federation faces its greatest test is to abandon the principle that made Canada possible as a plural society in the first place.

Honourable senators, Mr. McEvoy, Faculty of Law at the University of New Brunswick said:

The legitimate role of the Senate is not as a second voice of the people but as the voice of the regions of Canada within the most basic federal institution, Parliament. As a political actor, the Senate surely has a legitimate voice to determine issues of clarity.

Robert Howse, Professor of Law, University of Michigan said:

The Clarity Bill appears to attempt to create a mechanism whereby the House of Commons alone could, in certain circumstances, determine, as a matter of law, certain actions of the Executive Branch. I do not see how Parliament could give the House of Commons powers that do not exist in the present Constitution.

Conversely, Patrick Monahan observed:

It is my view, however, that the approach adopted by Bill C-20 does not infringe upon the privileges or prerogatives of the Senate.

I could go on providing quotes from our many witnesses, but to what avail? With the exception of Mr. Ryan, I sat and listened to them all. We can each find many quotes to support our individual arguments. Are some of these very expert witnesses right and others wrong? I think not. We were given opinions, opinions based on learned interpretations made by very different individuals. Thus it comes back to each of us to search our souls and to find a way of dealing with this very complex bill in a way we feel is right and will best serve Canada.

In my view, the Senate has done its job in the very best tradition for which it was first instituted. Bill C-20 has been laid bare in a way the other place could never do it. It is now for the elected House to take this bill and make it stronger to meet all of the challenges ahead.

If they choose not to amend, it is they, the elected House, who must live with the results and the electorate will judge them, as they cannot judge us. If amended in this place, we send the bill to an uncertain future. It is not as simple as the House approving the amendments in the fall and sending it back for Royal Assent. Therefore, I cannot vote for amendments.

This bill sets out a much-needed blueprint should secession become a reality. A bill crafted by the elected players to defeat it would clearly play into the hands of those who would rather this bill did not exist at all. Therefore, I cannot vote against Bill C-20.

Here is where I meet the conundrum for which I have no satisfactory solution. In my view, all amendments are possible at a later time, all but one. That one is the act that I must take in order to support the bill: my vote. My vote, which takes the Senate out of the equation, eliminates the safety valve at a time when it will be most needed. My vote that, once cast, can never be taken back and never amended.

As an appointed senator, I fully appreciate the equal part the Senate plays in the important regional and minority representation. I also appreciate the equally important role the elected House plays. We are equal partners, each half playing a different role, but together forming a strong, representative whole.

Democracy consists of these two parts: the rule of the majority and the protection of individual and minority rights from the tyranny of the majority. The Senate must be there. Therefore, I cannot vote yes. What am I to do?

Not to exercise my vote is unconscionable, an abrogation of my duty as a parliamentarian. Yet, what are my alternatives?

I cannot absent myself from the house. I must be counted on in this very precedent-setting and important bill. It is with a heavy heart that I must follow my conscience and be counted as an abstention.

I had hoped to rise with a strong "yes" for Canada, but the omission in this bill — the omission of the safety valve, the omission of the Senate — prevents me from doing that.

I honour and I respect the position that will be taken by each and every senator in this house. Bill C-20 has drained us all. In the end, each of us will live with the very difficult decision that we must make. May a higher power guide us all.

Senator Prud'homme: Honourable senators, I should like to make a short comment.

I must admit that I shall remember for a very long time the speech of the Honourable Senator Christensen, to the point where, even if she did not speak a word of French, and even though I may vote differently from her, I should be very honoured to sit next to her, as I have done in some circumstances in the past. If I understood well, it is an agony for many of us. Why should we be hypocritical? It is tough to say "no" to your oldest friends or, dare I say, the Prime Minister himself.

If I am challenged on this matter, I should not hesitate to go to the end of the discussion.

I do not think we shall vote the same way, but the speech of the honourable senator has touched me personally as being the meaning of the Senate. I hope that the debate will continue so that every senator will have a chance to listen to what Senator Christensen has said.

I shall say to Senator Christensen that I shall make sure that everyone reads her speech. Even if the honourable senator had said, "I came to the conclusion of not accepting an amendment and voting 'yes' to the bill," I would still stand up because I was very moved by her speech. I am not saying this emotionally. The honourable senator has just delivered to us an unbelievable piece of art. It is a good example of what the Senate should be.

On motion of Senator Grafstein, debate adjourned.

• (1940)

CANADA NATIONAL PARKS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill C-27, respecting the national parks of Canada.

Hon. Eileen Rossiter: Honourable senators, I am pleased to speak at second reading of Bill C-27. As parliamentarians, we have a special trust relationship with other Canadians when it comes to our national parks, our national historic sites and our marine conservation areas.

Canadians from all across the country take great pride in our national parks. The park vision began in 1885 when the federal government set aside 26 square kilometres near the town of Banff, Alberta, and Banff National Park became Canada's first national park.

Today, we enjoy 38 national parks or reserves in 24 natural regions in Canada. These parks vary greatly in size and topography, from St. Lawrence Island Park in Ontario established in 1914, to the remote and vast Wood Buffalo Park in the Northwest Territories which was established in 1922.

Canadian parks and historic sites, including marine parks, play an important role in the economy, generating \$2 billion annually for the tourism industry. These parks welcome an astonishing 26 million visitors per year. It is not surprising, therefore, that over 70 per cent of Canadians identify national parks as symbols of our national identity.

When a national park is established, a parcel of land is protected. This, in turn, promotes the preservation of clean air, water and land. A national park also acts as a buffer to protect wildlife from detrimental human activity. A park also provides a haven for rare plants and old growth trees.

One just has to look to the Gwaii Haannas National Park at the lower tip of the Queen Charlotte Islands for a success story about plant and animal protection. This national park provides

protection to 39 species of plants and animals not found anywhere else on the globe.

Honourable senators, my home province of Prince Edward Island is Canada's smallest province and, as islanders, we are very proud of our national park. Our national park is located on the north shore of the province. It is made up of salt-water beaches, sand dunes, high coastal cliffs, marshes, ponds and woodlands.

This beautiful park is also home to one of Canada's endangered species, the piping plover. Prince Edward Island National Park is one of the few remaining areas of Canada for the piping plover. It is imperative, therefore, to ensure protection for this fragile ecosystem so that this species can continue to call this island park its home.

Honourable senators, in examining Bill C-27, one has to consider where we have come from in terms of major amendments to national parks legislation in recent times. Parks Canada delivers its mandates primarily through the National Parks Act. This act undergoes periodic amendments with the last set of comprehensive changes being made in 1988 by the former Progressive Conservative government.

In March 1999, Bill C-70 was introduced in the other place. The bill died on the Order Paper at first reading. This year, Bill C-27, which is essentially the same as Bill C-70, was introduced. Some of the major points of Bill C-27 include: the establishment of new national parks; changing the process through which national parks will be established from one done by legislative enactment to one done by cabinet; the fixing of boundaries of all communities in the park system; the capping of commercial development; increasing the maximum fines for some poaching offences; and bringing the authority of park wardens to enforce the laws under the National Parks Act and the power to arrest in line with other peace officers.

To put Bill C-27 in proper perspective, it would be healthy to scrutinize it within the context of this government's overall record in the area of national parks, historic sites and marine conservation areas.

With this in mind, Bill C-27 can be considered the latest of three recent major legislative initiatives undertaken by the government. The other initiatives were the creation of the Canada Parks Agency and Bill C-8, respecting marine conservation areas.

One of the promised directions of these legislative measures is, according to the government, a move to greater enable the ecological protection of our national parks, historic sites and marine conservation areas. Another promised direction, according to the government's pronouncement surrounding their parks legislative agenda, is to supposedly achieve greater efficiencies in the overseeing and administration of our park sites and marine conservation areas.

Within the context of the government's other major legislative measures on national parks, historic sites and marine protected areas, one must consider how effective this government's national parks policy will be in achieving its stated objectives and principles.

Consider the goal of greater protection of the ecological integrity of our national parks. As has been mentioned in this chamber before, Canada has a problem in this regard. One need look back no further than what the Auditor General said in 1996 when he warned Parliament that the ecological integrity of our existing parks is under attack. How has this government responded to this admonishment to the Auditor General? A good argument could be made that some aspects of this government's national parks policy have subtly undermined Parliament's oversight role with respect to the administration and creation of national parks, diminishing the ability of government and Parliament to act on such problems as the one highlighted by the Auditor General.

The act creating the Canada Parks Agency as a semi-autonomous, quasi-governmental organization is a perfect illustration. The pressures in terms of commercialization and overdevelopment will still be there under the Canada Parks Agency. Indeed, many critics of the Canada Parks Agency bill pointed to how the park's administrative regime, enabled by the passage of that legislation, could potentially contribute to increasing the stressors that undermine the ecological integrity of our national parks.

Simply put, it is hard to see how the principle of greater protection and promotion of the ecological integrity of our parks is enhanced when Parliament and government are less, not more, accountable for what happens within national parks. I mention this because, interestingly enough, one element of Bill C-27 seems to consolidate this trend towards the reduction of parliamentary oversight over national parks.

I am speaking of how Bill C-27 modifies the process by which national parks come into being. Under the existing National Parks Act, a park is created by either Parliament's enactment of a statute or a proclamation procedure whereby a description of the land in the park is added to a schedule of the National Parks Act in order to ensure its protection. Bill C-27 will change this process. Under Bill C-27, the government proposes that new or existing parks and park reserves be created or enlarged by means of an Order in Council. This will be done without the passage of new legislation and all the debate and scrutiny that occurs when legislation is passed through both chambers of this Parliament.

Parliament would still play a role as the draft Order in Council will be tabled in the House of Commons and the Senate and then referred to the appropriate standing committee for consideration.

I do not want to completely prejudge the proposed process at this stage, but what I shall say is that I hope we shall receive some assurances when this bill goes to committee that this change is both necessary and that the role of Parliament in the

creation of national parks is not needlessly compromised by this proposed change.

In this regard, I find it interesting that the other house has already had to amend a subclause of Bill C-27 dealing with this new process. Before it was amended, subclause 7(3) of Bill C-27 would have placed a three-hour limit on a motion to concur with amendments to our national parks system.

While it is a good thing that the other place made this amendment, it is puzzling that this subclause made its way into the original legislation in the first place. Surely, if the government was trying to reassure us that the role of Parliament was not going to be excessively diminished or needlessly compromised by the provisions of Bill C-27 regarding the creation of new national parks, a provision so dismissive towards Parliament's role in this new process would not have found its way into the original bill.

• (1950)

At committee I should hope that we examine the bill further to see if there are any additional problems of this nature. I can already see, in clause 34(3), a similar provision in this regard that has not been amended.

Also at committee, I hope my fellow senators heed my point about the need to consider this bill against the backdrop of this current government's overall national parks policy. It is important that we try to see past all of the buzzwords, such as "consolidate" and "streamline" that are used by government to sell its national parks policy, in order to examine if promise will be matched by performance with respect to the government's stated objectives of promoting ecological integrity, responsible environmental stewardship and heritage conservation.

I cannot emphasize enough, especially in this chamber of sober second thought, that we scrutinize how and why this bill affects government's and Parliament's role vis-à-vis both the administration and the creation of national parks, not to mention the people who both live in and use them. To state a policy objective and then to follow through with a legislative enactment is one thing, but examining the rationale behind the objective and the legislative enactment designed to achieve that objective on their own merits is something quite different.

Honourable senators, educators, politicians, government officials and outdoor enthusiasts all have a vital role to play in teaching our young and old the importance of preserving our national parks and creating new ones. We all have a responsibility in our own capacity to protect these magnificent areas. Our children, grandchildren, and all future generations depend on it. We shall keep this in mind as we examine the merits of Bill C-27.

Hon. Nicholas W. Taylor: Would the honourable senator answer a question?

Senator Rossiter: Yes.

Senator Taylor: I did not quite follow the honourable senator's comments about strengthening parliamentary input in the bill. The honourable senator mentioned halfway through her speech that there was something in the bill that might hurt parliamentary input, and I could not find it. Perhaps Senator Rossiter could elaborate?

Senator Rossiter: Honourable senators, the Senate's role and Parliament's role is diminished in one way in that the time for debate on an amendment is limited.

Senator Kinsella: Three hours.

Senator Rossiter: We do that through our rules, not through legislation. It is limited to three hours. That is one example.

Senator Lynch-Staunton: It has never been done before to limit debate in legislation. That is unheard of.

Senator Taylor: It is in the by-laws.

Senator Lynch-Staunton: It is in the bill.

Hon. Donald H. Oliver: Honourable senators, I, too, have remarks I should like to make about the national parks of Canada and Bill C-27 in particular. My remarks are not quite ready and I, therefore, move the adjournment of the debate, seconded by Senator Robertson.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we have had a very interesting speech by Senator Rossiter and are anxious to get this bill to committee today. Accordingly, I would urge Senator Oliver to speak now if he can because it is not our intention to let the bill stand.

Senator Lynch-Staunton: Why? What is the problem?

The Hon. the Speaker *pro tempore*: Senator Oliver, do you wish to speak now?

Senator Oliver: No, I move the adjournment of the debate.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Oliver, seconded by the Honourable Senator Robertson, that further debate be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker *pro tempore*: Please call in the senators.

Is there agreement as to how long the bells will ring?

[*Translation*]

Honourable senators, the whips will have to agree on how long the bells will ring.

[*English*]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): One hour.

The Hon. the Speaker *pro tempore*: The bells will ring for one hour.

Senator Hays: Honourable senators, in the absence of an agreement for the bells to ring for less than one hour, my information is — and I do not have the rules at hand because I did not expect this vote — that we have a choice between a 15-minute bell or a 60-minute bell. The opposition is asking for a 60-minute bell, so I do not think we would get agreement for the bell to ring less than that. Accordingly, I suspect that we are stuck with a one-hour bell. Perhaps His Honour could help me with that.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am not aware that this was a bill that needed to be rushed through. If it is a question of taking the bill to committee for proper examination and not forcing the committee to report to the chamber on Thursday for a final decision, I think that is acceptable. If the intention of the government is to ram the bill through — tomorrow being Wednesday — to bring it back on Thursday, I do not think that is acceptable on this side. I suspect the other side might be a little resentful of being treated that way.

Senator Hays: That is a helpful suggestion but for one thing, which is that perhaps such a sentiment should be expressed by senators on a division. I should like to see this bill go to committee. I am in an awkward position because, as senators will know from discussions on the floor of the chamber, there is a desire on the part of some on both sides of the chamber to give the bill passage before the summer break.

Honourable Senator Lynch-Staunton is quite right — this bill was identified in my discussions with Senator Kinsella as a bill that we want to see passed, but I point out that we have bills so identified that would appear will not be passed. Accordingly, that list sometimes changes.

I invite other honourable senators to comment on that point, but I cannot undertake to not try to pass the bill. That will depend on the disposition of the matter in committee, if we can get the bill to committee tonight.

Hon. Marcel Prud'homme: Honourable senators, I have a point of order. We had this exercise not long ago and I was reminded that all honourable senators were out of order. From the time that Senator Oliver moved the adjournment we were in order. When Her Honour asked the question and decided that the nays have it, a vote was called. That was in order. Everything else on the floor is out of order because we are establishing a precedent.

Honourable senators were reminded of that by His Honour last Thursday, June 22, when I was the subject of that adjournment. At the end of the day, I was told that I was the only senator who was in order. What is happening now is out of order. It is proper for the two whips to look at each other. If they do not agree, the rules should be applied. Otherwise, we shall establish a precedent.

[Translation]

The Hon. the Speaker *pro tempore*: Honourable senators, we made the decision to call the senators and to proceed with a vote. I am now waiting for the decision of the whips as to how long the bells will ring.

[English]

Hon. Anne C. Cools: Honourable senators, I just stepped inside the chamber and this seems to me to be a repetition of what happened last Thursday. It seems to me if the chamber is denying an adjournment motion, that is clearly one decision of the chamber.

• (2000)

Rule 66(1) clearly states that leave has to be had to alter the time frame concerning the ringing of the bells. The question has to be put. The whips simply cannot make that decision on their own.

Senator Prud'homme: Point of order.

Senator Cools: Rule 66(1) states:

Unless previously ordered or elsewhere provided in these rules, when a standing vote has been requested in accordance with rule 65(3) —

The Hon. the Speaker: Honourable senators, we have at least three senators standing at the same time, all of them speaking.

The *Rules of the Senate* are quite clear. If a bell is called for, it is to ring for one hour unless, by agreement of the whips, the

time can be abridged. However, if there is no agreement, then the bell must ring for one hour.

Senator Cools: It requires more than the agreement of the whips.

The Hon. the Speaker: I am sorry, honourable senators, but this is not a debatable question.

Senator Hays: Honourable senators, in the time that has been taken to discuss this matter, I have had an opportunity to meet with my counterpart, Senator Kinsella. I believe we have an agreement on the disposition of this matter. I propose that we accept the adjournment motion so that we can deal with the bill tomorrow. I appreciate that this requires unanimous consent. I, therefore, ask for that unanimous consent.

Senator Taylor: Honourable senators —

The Hon. the Speaker: If Senator Taylor is rising on a point of order, I would ask him to make that clear.

Senator Taylor: It is more a point of explanation than anything else.

Some Hon. Senators: No, no!

Senator Taylor: Very well. I shall call it a point of order, Your Honour.

The only reason we are trying to put Bill C-27 through is because the Chairman of the Energy Committee, who is a Tory and who is not here this evening, requested that we do this. The minister and his staff were to appear before the committee this evening since we were unable to hear from them last week. Now a member opposite is asking to adjourn the debate. We were trying to be accommodating, but it seems that certain senators do not know what they are doing.

Senator Prud'homme: You are out of order!

Senator Taylor: Let them have a three-hour bell!

The Hon. the Speaker: Honourable senators, the motion of Senator Oliver has been carried. The debate is adjourned until the next sitting of the Senate.

May we please proceed to the next item of business?

On motion of Senator Oliver, debate adjourned.

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, there are no senators who wish to speak to the remaining matters under Orders of the Day, Government Business. Accordingly, even though some stand in the name of opposition senators, I request leave that they stand adjourned and that we now proceed to Senate public bills.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Jeremiah S. Grafstein moved the third reading of Bill S-5, to amend the Parliament of Canada Act (Parliamentary Poet Laureate).—(*Honourable Senator Kirby*).

He said: Honourable senators, I am most privileged to rise on the third reading of this modest yet far-reaching bill to create the post of parliamentary poet laureate.

Honourable senators, let me repeat the arguments I made to the Standing Senate Committee on Social Affairs, Science and Technology which unanimously reported this bill. At the outset, I wish to thank the honourable senators of the committee who gave my bill a thorough and comprehensive review.

The digital era of media convergence is upon us, pushing, crowding, homogenizing and, some say, even crushing us. We witness electronic perceptions easily morphed into virtual reality. By zapping or clicking endless images, messages are seamlessly reorganized and transformed. Senses are swamped by the warp and the woof of this unreal world. The canons of 'the word' are almost drowned out by this digital age.

We fear our civic society is becoming grammatically illiterate or, worse, culturally ignorant. Just as Parliament is predisposed as a check on state power, so poetry can provide a reality check on the confusing image chaos and information fog rampant in our civic society. In this collectivising age, we need more platforms for stronger individual voices, stronger free voices.

As a modest counterweight to this digital tidal wave, I argue we need poetry more than ever. From this whirring, spinning society, a virtuous cycle has suddenly emerged — a surprising revival, a renewed interest in poetry and poetry readings. Some spontaneous readings are called poetry 'slams'. Why?

Poetry works to boil ideas to their essence. Poetry steps back and reorients virtual reality. Poetry exposes the individual aesthetic. Poetry helps us look inward to ourselves and beyond our situation more clearly. At times, poetry and virtual reality almost become like competing entities of truth.

Some observers complain that virtual reality is springing out of control, magnifying otherwise inert forces and nascent

feelings of dislocation, isolation and alienation. Think of the games our children play.

The speed of digital change seems, in itself, disorienting. In turn, malaise, rootlessness and apathy eat away and displace a country's nurturing, common dreams and shared values as societal anchors. Violence erupts when common values we share fragment, erode and implode too quickly. Poetry can ease and soften the impact of these forces of distortion, so overloaded with floods of information that makes our modern life so confusing and disorienting. Sometimes one speech can become a prose poem that binds a country and its people together, armed only by a simple phrase, a thoughtful metaphor.

As Robert Pinsky, the American Poet Laureate argues:

..."in its proper place", poetry may bring harmony from disharmony, understanding from confusion. Poetry and the written word can help us refocus. In this 24x7 world, time is the essence. Poetry can freeze experience and then defrost it with a word, a phrase, a line, a paragraph, a verse, a poem, a metaphor.

Walt Whitman argued that the United States was so immense, so fragmented, so disparate and divided, "to be held together by anything but poetry." Untutored forces can work in an unintended way that, without our assent, press us together in crushing conformity. Our society needs other visions, alternate voices, fresh breathing room, more thinking time, and different rhythms.

Poets and poetry give us space, give us pause to analyse our society and our work in slower motion. Some scoff at poetry, demeaning its rich record of history. Some argue that poetry has no place associating with political power. Associating with Parliament can only taint poetry, they say. Poets would be held in bondage by the poet's association with Parliament. There is some force to this argument.

• (2010)

For a over a century, those three miserable 'isms', Communism, Fascism and Nazism, all organized to harness the poet's art to the uses of state power. Yet, Parliament was created precisely as a popular check on state power. Hence, the model that informs this modest recommendation is that the cabinet — the executive of state power — would have no hand in the selection of the Poet Laureate. The process proposed here is quite simple. The leaders of our major cultural institutions, the Library of Parliament, the National Archives, the National Library, the Canada Council and the Official Languages Commissioner, would biannually propose nominees. Poets, their societies, writers and the public would be encouraged to lobby for these selections. Three poets would be nominated. From these three, the Speaker of House of Commons and the Speaker of the Senate would take a decision. The Poet Laureate would serve for two years with minimalist responsibilities. He or she would act freely as a catalyst to bring poetry to the heart of public dialogue, to heighten public awareness.

Honourable senators, Robert Pinsky, the Poet Laureate Consultant of the United States, pointed out that William Blake was quoted more often in the British House of Commons than any other source. The power of poetry is potent. Everything we do here is based on words. "Words" are the only business of parliamentarians. Some argue that Parliament works in a cocoon, immune to the realities of life since Parliament can deal mostly with laws that please the largest numbers. The Poet Laureate can place a mirror before Canadians that refracts different images of life. The Poet Laureate can parse our common lexicon in much different ways. We need diversity of thought to create a unity of dreams, a unity of visions. Poetry might even add some greater sense and sensibility to the word factory of Canada — to our Parliament. Poetry might bring fresh realities to the very heart of the Canadian soul, wherever it may reside.

This bill, honourable senators, has received enthusiastic support from the leaders of those cultural institutions, from the Library of Parliament, from the National Archives, from the Canada Council, from the National Library, from the Commissioner of Official Languages and from the associations representing Canadian poets.

Honourable senators, for your careful deliberations, I commend this bill, this modest millennium idea, for consideration and, hopefully, for unified and positive support on third reading.

On motion of Senator Lynch-Staunton, debate adjourned, on division.

HUMAN RIGHT TO PRIVACY BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Hervieux-Payette, P.C., for the second reading of Bill S-27, to guarantee the human right to privacy.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, given the hour of the evening, I will not impose on you by giving the full text of the remarks that I put together on what I consider to be an important initiative by our colleague Senator Finestone, but I do have my abbreviated version and I should like to take five minutes to place on the record a few comments.

The bill, which I support in principle, is a good initiative. It speaks to the right of privacy that we, as Canadians, have recognized not only in our international human rights obligations, such as in the Universal Declaration of Human Rights, Article 12, and also pursuant to international treaty law, in particular the International Covenant on Civil and Political Rights in Article 17.

Bill S-27 is an initiative that will add to the required fabric of the legal protection of Canadians' right to privacy. What is privacy? Privacy is a fundamental human right that underpins human dignity and other key values, such as freedom of association and freedom of speech. It has become one of the most important human rights issues in the information world of the present day and in an era of remarkable advances in the fields of medicine. Thus, we speak of body rights or bodily privacy, which is also at centre stage given the concerns associated with the protection of people's physical selves against invasive procedures, such as drug testing, cavity searches and the use of DNA.

Privacy of communications concerns each of us today, especially given the many forms of communication, whether in terms of security and privacy of mail, e-mail included, and the ubiquitous telephone. There are also territorial privacy concerns — that is, the setting of limits on intrusion into domestic and other environments, such as the home, workplace or public space.

Honourable senators, in terms of reflecting on justification of this human right of privacy, privacy has roots deep in history. References to solitude are numerous in early civilization. Early examples of privacy legislation, per se, would include the Justices of the Peace Act of England in 1361, which provided for the arrest of eavesdroppers and peeping Toms. One of my favourite early examples are the words of the great parliamentarian, William Pitt, who wrote:

The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter; the rain may enter — but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement.

In more recent times, Mr. Justice Louis Brandeis argued that privacy was the individual's "right to be left alone."

In his 1967 book *Privacy and Freedom*, Alan Westin writes that privacy is the desire of the people to choose freely under what circumstances and to what extent they will expose themselves, their attitude and their behaviour to others.

It is, honourable senators, the dignity and inestimable worth of the human personality that provides for me the ultimate justification for the right of privacy. Privacy is an interest of the human personality. It protects the inviolate personality, the individual's independence, dignity and integrity.

All honourable senators are familiar with the fact that we in Canada are one of the few countries that does not have in its constitutional Charter of Rights and Freedoms the constitutional recognition explicitly of the right to privacy. That is not to say that we have not a good fabric of statutory and common-law practices dealing with the issue of privacy. On the contrary, the Canadian courts, in interpreting section 8 of the Charter, which grants the right to be secure against unreasonable search or seizure, have recognized the individual's right to a reasonable expectation of privacy. We have had a number of important statutes in Canada, such as the statute that created the Office of the Information Commissioner and the Office of the Privacy Commissioner, two of the offices of Parliament, and, more recently, the passage of Bill C-6, which was the federal government's response to the need for an extension of data protection laws to the private sector under federal jurisdiction in Canada.

Honourable senators will recall that it was our the Standing Senate Committee on Social Affairs, Science and Technology that did a fairly good piece of work when it was studying Bill C-6. Therefore, we have in our Social Affairs Committee a corporate memory on the issue of privacy. It would seem to me that Bill S-27 would be in good hands should it, upon the adoption at second reading of the principle of the bill, be sent to our Social Affairs Committee.

• (2020)

In closing, I agree with the objective of Bill S-27, which is to situate the right to privacy within an overarching context of Canadian values by providing an articulated legal framework that speaks to the primacy of the right to privacy in Canadian statutory law. As I said, given that the right to privacy is not explicit in the Constitution or the Canadian Charter of Rights and Freedoms, Bill S-27 appears to me to be a most appropriate initiative and one that we all should support, which I am pleased to do.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Finestone, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

SIR WILFRID LAURIER DAY BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator DeWare, for the second reading of Bill S-23,

respecting Sir Wilfrid Laurier Day.—(*Honourable Senator Hays*).

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I request that this order stand in the name of Senator Grafstein rather than in mine.

The Hon. the Speaker: Is it agreed, honourable senators, that the order stand in the name of Senator Grafstein?

Hon. Senators: Agreed.

Order stands.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Perrault, P.C., seconded by the Honourable Senator Fairbairn, P.C., for the second reading of Bill S-11, to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable.—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators, Bill S-11 is entitled an act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable.

Honourable senators will recall that former senator Stanley Haidasz, a very fine man, worked for many years to protect human rights, specifically in this area. Senator Haidasz was, in fact, responsible for the predecessor of this bill. However, as a result of his retirement from the Senate, his bill died on the Order Paper. It seems that Senator Perrault has resurrected that bill, built on it, and has brought before us the product as Bill S-11.

Bill S-11 seeks to protect the right of health care practitioners and other persons from fear of reprisal or other discriminatory coercion, to refuse to participate in medical procedures that offend a tenet of a person's religion or their belief that human life is inviolable. Senator Perrault's bill attempts to safeguard such individuals from reprisal and negative actions mostly in their places of work.

Senator Perrault said on April 13, 2000 that many physicians and nurses have expressed concern that an ethical decision concerning the risk to human life may be hampered by fear of reprisals. For example, it is becoming increasingly difficult for nurses to choose areas of practice in which they can avoid or refuse to assist in abortion procedures, since many such procedures are often performed in wards other than those of gynaecology and obstetrics.

Senator Perrault's initiative is worthwhile and deserving of proper study and consideration.

On April 13, 2000, in his speech on this very important issue, as reported at page 1162 of the *Debates of the Senate*, Senator Perrault said:

Freedom of conscience and freedom of expression lie at the very root of Canadian Confederation. The cultural freedom of disparate religious groups has become a touchstone of Canada...

He continued:

In the context of the reality that medicine, both science and practice, has loosed its moorings from the stays of respect for human life, there is need to strengthen the fundamental regard we have of conscience. We must put in place measures to meet the serious abuses of personal freedoms and ultimately of patients' lives. Down the road, we need legislation that is more comprehensive than this bill or the bill that was introduced in the other place.

Honourable senators, it is late in the day and there are still many items on Order Paper to be dealt with. However, I wish to make clear and to affirm before honourable senators that I support Senator Perrault's initiative, Bill S-11. I should like it to be referred to committee and given the study that it deserves, with witnesses called to air the issues contained in the bill.

Honourable senators, the time has come to study the problems, challenges and needs in our society created by the Supreme Court of Canada judgment in *Morgentaler*. It is time to look at the impact of the changes caused by that ruling on the practitioners in the field, who do the work on the ground and may be subjected to negative treatment that we might not support.

The work of the former senator Haidasz and Senator Perrault raises many questions about freedom of conscience and human rights, questions that should be addressed. I look forward to the discussion in committee. In his speech, Senator Perrault laid out some of the case law and many of the social problems. I urge honourable senators to support this bill.

[Translation]

• (2030)

Hon. Marcel Prud'homme: Honourable senators, I have long wanted to take part in a debate of this sort. My father was a doctor. He delivered over 9,000 babies, providing his services for free in half the cases because his patients were members of the working class. I was always taught that no one should ever force anyone to do anything they did not wish to do, particularly when it came to matters of a medical nature. We know Senator Haidasz's passion for this issue.

The bill was resurrected by Senator Perrault and supported by Senator Fairbairn. Many people speak about freedom, write about freedom, and sing about freedom, but when someone wishes to exercise their freedom with respect to such profound and personal issues, suddenly society wants to stand in the way.

This will never stop those who wish to participate in general medical procedures but if, for deep-seated personal, religious or other reasons, some people decide that certain medical procedures are contrary to their religion or beliefs, we should not force them to perform them.

I have known doctors; that is something we can agree on. Some senators are very familiar with medical questions. I do not know anybody who, for religious reasons, in an emergency, would let someone die. However, generally speaking, forcing someone to participate in medical procedures contrary to their religion or their beliefs should be prohibited.

I am anxious to see this bill referred to committee for consideration. We will be present to see what becomes of it and, if we are not satisfied, we will speak again at third reading.

On motion of Senator Hays, debate adjourned.

[English]

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I see that Senator Chalifoux is here. I request permission to revert to Reports of Committees, No. 1.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

ABORIGINAL PEOPLES

OPPORTUNITIES TO EXPAND ECONOMIC DEVELOPMENT OF NATIONAL PARKS IN THE NORTH— BUDGET REPORT OF COMMITTEE ON STUDY ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Finnerty, for the adoption of the fifth report of the Standing Senate Committee on Aboriginal Peoples (power to hire staff and to travel) presented in the Senate on June 21, 2000.—(Honourable Senator Kinsella).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, might Senator Chalifoux give us an explanation as to the nature of the study that is being proposed?

Hon. Thelma J. Chalifoux: Honourable senators, it is my pleasure to give you an explanation. In December of 1998, the then Secretary of State for Parks, Andy Mitchell, sent a letter to Senator Carstairs requesting that the Senate consider doing such a study. When we were looking at developing some of the parks, we realized that they affect all the aboriginal communities surrounding the parks in the Northwest Territories. There are 10 parks of which we are speaking in regards to economic development, opportunities, and possibilities.

[Senator Cools]

In most of these communities, the unemployment rate is between 80 per cent and 90 per cent. National parks have the potential to create some economic resource possibilities. Parks Canada is now under Minister Copps of Heritage Canada. Mr. Tom Lee is the chief director for the parks. They have come to us. Parks Canada is now \$50 million in the red. They do not have any money to carry out this study. At the request, indeed the insistence, of some of the aboriginal leaders, and in light of the concern expressed by the people of Parks Canada, we have been requested to undertake this study.

Our budget was cut by 10 per cent. Our budget is now \$45,411. What we propose to undertake will not be a comprehensive hearing, rather, it will take the form of a task force study. Three senators and two staff members will do this work. To record their proceedings, they will use a tape recorder and take notes. Honourable senators, our efforts will assist Parks Canada to develop economic opportunities for the aboriginal communities in these 10 parks.

Senator Kinsella: I thank the honourable senator for that information.

The Hon. the Speaker: If no other honourable senator wishes to speak, I shall proceed with the motion.

Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

DEVELOPMENTS RESPECTING EUTHANASIA AND ASSISTED SUICIDE

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY
COMMITTEE—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the Motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Mercier, for the adoption of the Seventh Report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: "Quality End-of-Life Care: The Right of Every Canadian", tabled in the Senate on June 6, 2000,

And on the motion in amendment of the Honourable Senator Corbin, seconded by the Honourable Senator Ferretti Barth, that the motion be amended by adding the following words:

": and

That the Senate request the Government to provide a comprehensive response to the unanimous recommendations contained in this Report within six

months of the adoption of this motion."—(*Honourable Senator Maheu*).

Hon. Shirley Maheu: Honourable senators, I should like to take part briefly in the debate for the adoption of the report entitled "Quality End of Life Care, the Right of Every Canadian," presented to this chamber by the Subcommittee to Update "Of Life and Death," the report of 1995.

First, I would take this opportunity to congratulate Senator Carstairs for her leadership, and all my colleagues who took part in the work of the subcommittee. The report now before us bears the stamp of a serious work, done with great care and with no wasted time.

[*Translation*]

I feel that the objective of the whole exercise, which was to report on the state of palliative care in Canada and to suggest means of ensuring that our fellow citizens receive quality end of life care, was achieved. The 14 recommendations contained in the report will, if translated into concrete measures, make it possible to introduce improved palliative care for Canadians.

[*English*]

Some of these recommendations are, from my point of view, very important. For example, the sixth one suggests that we explore ways to increase multi-disciplinary training and education of professionals involved in end-of-life care. As a matter of fact, a thorough education in end-of-life care would help the health care providers give appropriate treatment to the dying. That would translate into a more peaceful end of life for the dying, where their dignity would be respected.

I also believe that the fifth recommendation of the subcommittee is timely. This recommendation states that the federal government immediately implement income security and job protection for family members who care for the dying. This finds its meaning with the reorganization of the burden on the health care system everywhere in Canada, and especially in the Province of Quebec.

[*Translation*]

Last week, Quebec daily newspapers reported that the Conseil du statut de la femme has discovered a very serious, but far from surprising, situation. According to the council, women are the ones who are bearing the brunt of the movement in recent years in Quebec to not keep people in hospital.

• (2040)

They are the ones who, to a large extent, have to provide family members with care that is no longer provided in hospital. Before they were "natural caregivers" and now they have become "nursing care providers." The burden now being placed on women looking after a sick family member is often extremely onerous, and can often jeopardize their own health and their careers.

The situation the Conseil du statut de la femme is decrying manifests itself particularly when it comes to caring for terminally ill patients. That is why I feel the fifth recommendation of the committee is extremely important. Family members, women in particular, must not be penalized for caring for a dying relative.

Honourable senators, that said, I would like to go on to speak of a concern I have about this report.

[English]

Honourable senators will remember that last February I spoke and voiced my concerns regarding Bill S-2.

[Translation]

I supported, and I still support, the broad thrust of this bill. However, the bill still struck me as incomplete in several regards and could be seen as opening the door to certain abuses. I felt, and I still feel, that Bill S-2 may even be, in its present form, an initial step towards legislation on euthanasia and assisted suicide, which I find totally unacceptable.

[English]

In English, we say that this may be that slippery slope to which everyone refers.

[Translation]

In order to avoid this, I asked that the committee responsible for studying Bill S-2 approach its deliberations with great care. I even suggested various amendments which, in my view, could improve the bill.

My fear, which I mentioned to you earlier, is that the present report, which notes how little progress has been made in the field of end of life care over the past five years and the urgent need for action, will encourage the Standing Committee on Legal and Constitutional Affairs to act too precipitously during consideration of Bill S-2. I am, however, nearly convinced that my concern is ill-founded and that my colleagues on this committee will do their work with their usual rigour.

[English]

Finally, I believe that this report, together with Bill S-2, once amended, will ensure Canadians better end-of-life care.

Hon. Senators: Hear, hear!

Hon. Sheila Finestone: Honourable senators, I wish to support a very important piece of work that has been done by this Senate and to thank the committee and its chair for moving us forward on a most important undertaking. We have moved in the field of maternity care and it is about time that we moved to eternity care.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

The Hon. the Speaker: The question is now on the main motion. Is it your pleasure, honourable senators, to adopt the main motion, as amended?

Hon. Senators: Agreed.

Motion, as amended, agreed to and report adopted.

PRIVILEGES, STANDING RULES AND ORDERS

FOURTH REPORT OF COMMITTEE ADOPTED— MESSAGE TO COMMONS

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Bacon, for the adoption of the fourth report of the Standing Committee on Privileges, Standing Rules and Orders (questions of privilege of Honourable Senators Andreychuk and Bacon), presented in the Senate on April 13, 2000.—(*Honourable Senator Cools*).

Hon. Jack Austin: Honourable senators, it is my information that Senator Cools will not participate in this debate. The motion was reserved in her name.

Hon. Anne C. Cools: Honourable senators, I am quite prepared to yield the floor to Senator Austin. Unless there is another speaker, I would ask Your Honour to put the question.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

Senator Austin: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That a Message be sent to the House of Commons to inform that House of the recommendations appearing in the Fourth Report of the Standing Committee on Privileges, Standing Rules and Orders, dated April 13, 2000, concerning the premature and unauthorized disclosure of committee reports.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Privileges, Standing Rules and Orders (Question of Privilege raised by Senator Tkachuk), presented in the Senate on June 22, 2000.—(*Honourable Senator Austin, P.C.*).

Hon. Jack Austin moved the adoption of the report.

Motion agreed to and report adopted.

SEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Committee on Privileges, Standing Rules and Orders (length of time of Senators' Statements), presented in the Senate on June 22, 2000.—(*Honourable Senator Austin, P.C.*).

Hon. Jack Austin: Honourable senators, I move the adoption of this report.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: Carried.

Hon. John Lynch-Staunton (Leader of the Opposition): Explain.

The Hon. the Speaker: I am sorry, but the motion has been carried.

Senator Lynch-Staunton: Honourable senators, I rose and requested an explanation.

The Hon. the Speaker: Honourable senators, is leave granted to allow an explanation?

Hon. Senators: Agreed.

Senator Austin: Honourable senators, the committee considered what it believed was the growing abuse of the three-minute rule for Senators' Statements. We were unanimously of the opinion that the Speaker should vigorously enforce the three-minute rule. We have recommended a change in the wording of the rule so that it is very clear that three minutes means three minutes.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: His Honour will appreciate that it is for his benefit that I ask for an explanation. From now on, statements will be recognized as being no more than three minutes long, with no leave being given. Am I correct?

Senator Austin: If the motion is carried, that is the intention.

Senator Lynch-Staunton: I hope that is clear to all honourable senators.

The Hon. the Speaker: I expect that all honourable senators will support me when I rise.

Motion agreed to and report adopted.

EIGHTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report of the Standing Committee on Privileges, Standing Rules and Orders (changes to Rule 86), presented in the Senate on June 22, 2000.—(*Honourable Senator Austin, P.C.*).

Hon. Jack Austin: Honourable senators, I move the adoption of this report.

Hon. John Lynch-Staunton (Leader of the Opposition): Explain.

Senator Austin: Honourable senators, the committee discussed the issue of this house having a particular focus through its committee work on defence and security, on the one hand, and human rights and the rule of law on the other. This item was dealt with also in the last session and reported on by the committee at that time.

At that time, however, the issues were combined with other questions relating to the organization of committees and also combined with the question of the role of independent senators. The committee now has limited its recommendation only to the creation of these two committees. They would be organized in the fall by the Committee of Selection only if the house approves of the motion. The question of the role of independent senators as members of committees has been deferred by the committee until the fall.

• (2050)

Hon. Marcel Prud'homme: Honourable senators will notice the various matters on the Order Paper. Number 6 is clear; we know exactly what that is about. It is a question of privilege raised by Senator Tkachuk. Item number 7 on the Order Paper relates to the length of time for senators' statements. We know what that is all about.

Number 8 was almost passed by. It concerns a change to rule 86. We do not know exactly that that is, so I insisted that some explanation be given. I see my message got to Senator Austin. It is very important that we be presented with the facts. I would hope that, in the Senate, facts are what we base our decisions on.

We were given the undertaking, under the able chairmanship of Senator Maheu, who is still in the Senate, that the questions of new committees, subcommittees and the participation of independent senators would be discussed, debated and reported to the Senate. I was at that meeting and I agreed with Senator Kinsella who was there. For three minutes, Senator Rossiter was there. I was at those meetings. The only one I missed was the one where the subject of independent senators was discussed.

By coincidence, I was at the unveiling of the monument of Jean Lesage in Quebec City. I spent four days at the National Assembly. I think it is important that some of us show our faces there and see what is going on in the National Assembly, especially towards the end of a session. It may even resemble the Senate at the end of a session when lots of bills are dealt with.

There was an undertaking by Senator Maheu. I do not lie; I do not need a witness. The honourable senator is in the chamber, and I would be the most surprised person if she were to correct my general understanding of what occurred that day. The committee looked into the role of independent senators. I know there was a lot of disagreement on both sides. Perhaps some will have less difficulty in their participation if new horizons develop in the role of senators. It was understood, though, that we would have an answer and a real debate in the Senate.

We now arrive at the binding creation of two new committees. It is not written anywhere. I am tempted to ask every senator — I am shy but not that shy — if they know how many people will be involved and what they will do. I do not think we are being fair to each other. Two new committees are being created with seven members. I must ask: Why not 10 or 11?

There was also understanding that there may be room for independent senators on new committees. I know Senator Lynch-Staunton does not like the term "independent senator." I agree with him but I do not know what else to call myself. Perhaps if I call myself "senator Québécois," that would be more clear.

Two new committees have been created. There will also be a change to rule 86 and, of course, there must be such a change because the two new committees will have seven members. One will study defence and the other human rights. Both topics are most interesting and I am happy for those senators who will participate on those committees.

On top of that, honourable senators, new colleagues and esteemed colleagues —

Senator Graham: They are all esteemed.

Senator Prud'homme: — we are told now that these two new committees will not be convened until the autumn. At that time we shall also discuss the role of independent senators. Then why should we not wait until the autumn?

I see influential senators on the other side, whom I shall not name, who know that my comments make sense. Honourable senators have agreed that nothing will be done with regard to these two committees until the autumn. At the university, I did not do very well in certain subjects, but I defeated almost everyone in logic and philosophy.

I shall not beg; and I have been told that I cannot speak for other independent senators. However, others may be affected.

Senator Austin is a reasonable man. I must question why he will not avoid this debate by saying that, since nothing will be

done before autumn, we shall wait and see what is to be done about the independents. You may come to the resolution that there is no role for independents on the two new committees. That decision will be debatable and, I suggest, should be voted on.

I would ask the leadership and all honourable senators to consider what I just said on my own behalf as an independent senator who still has the power of logic, as well as a good memory. These matters are dealt with in the ninth and eleventh reports.

How long can you push people and yet they remain polite and gentle? There comes a time when one wonders why one came to this bloody place. I love the Senate. It is not because it is red that it is a bloody place but because sometimes one feels called upon to say or do something that can be very difficult. Some of us may do something wrong. Some of us may get on others' nerves. I know some senators are bored. I keep saying to myself that one day I shall tell them, "Senator, there is a big door. If you are bored with yourself, why do you not resign?" Some senators would like to adjourn as soon as the session starts, and others think that our sittings are too long.

I talk about Canada and the world, and the role that Canadian senators can play. Senators can play a certain role because we have been given the independence of not being required to report to electorate.

I have never been treated badly in Quebec because I am a senator. During those four days I spent in Quebec City, I saw almost the entire city. I was not insulted by anyone for being a senator, far from it. Maybe they all hope to be in the Senate; I do not know.

You could, in a gesture of cooperation, say "I have listened to you, Senator Prud'homme, and I think what you say makes sense." Nothing will be done before the autumn. That being so, I would suggest that that gives us time to come up with some satisfactory solutions to this.

Senator Austin: Senator Prud'homme, I have more sympathy for your position than you can possibly know.

Senator Prud'homme: I do not want sympathy. I want action.

Senator Austin: There are three points on which we need to focus. First of all, the Senate should be part of a very important public policy debate in this country regarding defence. We need a committee that will focus on those issues. That entire sector will become far more important in the months ahead than it is even today.

• (2100)

Second, the same remarks apply to human rights. This is a profoundly important area and a significant part of Canada's foreign policy, as well as a critical part of our domestic structure.

I acknowledge that in the previous session, under Senator Maheu, the ninth and eleventh reports were linked together and submitted to the Senate as a package. In the Rules Committee, we felt that we should take apart the constituent sectors and move ahead where there was consensus on the creation of the two committees.

We had a thorough discussion on the role of independent senators. Regrettably, there is as yet no consensus with respect to that role in the committee. I cannot give the honourable senator an undertaking that a consensus will emerge, but I can give him an undertaking that we shall come back to the subject when we meet in the fall and consider it in his presence. I shall go out of my way to ensure that he is invited to that particular discussion.

Finally, I have no objection to the motion standing until the Senate meets in the fall, and we can continue our debate at that time.

Hon. Sheila Finestone: Honourable senators, I would ask the Chair, at the same time the committee reviews the aspect raised by the honourable senator, to consider the addition, not just of veterans to defence, but also of official languages to the human rights committee.

Senator Austin: I have no difficulty bringing the honourable senator's submission to the committee for its consideration. I undertake to do that.

Hon. Douglas Roche: Honourable senators, I wish to adjourn the debate.

Hon. Bill Rompkey: Honourable senators, I urge the Senate to pass this committee report now. I do not think we should hold out for the perfect to establish the good. The perfect would be if we could establish the committees and have a resolution to the situation of independent senators, but we shall not get that today. Why should a committee or two new committees be held hostage to other issues that we cannot resolve? In a democratic fashion, let us move forward as quickly as we can; let us take one step at a time. There is a consensus to set up two new committees, including one on defence.

This country is crying out for an analysis of defence policy. The defence forces in the country, I believe, are in danger of slipping, perhaps, into farce. There are many issues, not the least of which is the situation of the reserves, which is critical. We are heading into an election. We are in an election year. We have a chance, it seems to me, to have some influence on public policy. We do not have a vehicle in this chamber for doing that, as far as defence is concerned, and yet there are so many issues.

There has been no thorough analysis of defence policy since 1993. The House of Commons has skirted around the edges of it. Sure, they have spoken about housing and issues such as that, but with the exception of some issues that have been raised — and I give credit for that to Senator Forrestall — we have not had a thorough debate. All of us on this side want to have a chance to

participate in the debate, too. I think Senator Forrestall would welcome a thorough debate on both sides of defence issues.

We have been debating this issue now for years. As I understand it, the issue of a Senate defence committee has been before us for years. How much longer do we have to wait for a vehicle to do what we want to do and what we can do and what the expertise exists in the Senate to do? There are senators on both sides of this chamber who I think know what questions need to be asked. All we are asking is a chance to do that. We must be given a vehicle to do that.

Some Hon. Senators: Hear, hear!

Hon. Tommy Banks: Honourable senators, I agree with what Senator Rompkey has said. I wish to point out — although I know it is not necessary — before the honourable senator adjourns the debate that when a committee having to do with human rights is established, there could be no senator more accomplished and qualified in that respect than Senator Roche.

On motion of Senator Roche, debate adjourned.

ASIA-PACIFIC PARLIAMENTARY FORUM

EIGHTH ANNUAL MEETING—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Carstairs calling the attention of the Senate to the Eighth Annual Meeting of the Asia-Pacific Parliamentary Forum, held in Canberra, Australia, from January 9 to 14, 2000.—(*Honourable Senator Prud'homme, P.C.*.)

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, perhaps Senator Prud'homme could ask for an extension. I would be pleased to agree that it should be given.

Hon. Marcel Prud'homme: I would be more than happy to follow the advice of the Deputy Leader of the Government.

Senator Hays: Honourable senators, this item is at day 15, and unless we extend the time, it will fall off the Order Paper.

Hon. John Lynch-Staunton (Leader of the Opposition): Has the deputy leader not spoken to it already?

Senator Hays: I have spoken to it, as a matter of fact.

Senator Lynch-Staunton: The deputy leader cannot speak again.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Sit, sit!

Senator Hays: I am asking for leave —

Senator Kinsella: He cannot ask; he spoke.

Senator Hays: — for this matter to be given additional time so that Senator Prud'homme may have a little more time to consider his remarks.

Senator Kinsella: The deputy leader is out of order!

Senator Prud'homme: Then my friend Senator Roche wishes to say something.

Hon. Douglas Roche: Honourable senators, I think this matter needs more discussion.

The Hon. the Speaker: Honourable senators, that can be considered a speech. I gather, then, that there is general agreement that the matter should be left on the Order Paper. Is there unanimous agreement that it remain on the Order Paper?

Hon. Senators: Agreed.

Order stands.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

ELEVENTH REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Bill Rompkey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, June 27, 2000

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

ELEVENTH REPORT

Notwithstanding the *Procedural Guidelines for the Financial Operations of Senate Committees*, your

Committee recommends that the following additional funds be released for fiscal year 2000-2001. These funds are in addition to those recommended by the Committee in its Seventh Report, adopted by the Senate on April 7, 2000 and its Tenth Report, adopted by the Senate on June 7, 2000.

Special Committee on Illegal Drugs	\$170,062
Agriculture and Forestry	\$1,500

Your Committee will continue to review Committee allocations taking into account historical trends of Committee expenditures and possible changes in the structure of Senate Committees.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Rompkey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h), moved:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 28, 2000, at 1:30 p.m.

Motion agreed to.

The Senate adjourned until Wednesday, June 28, 2000, at 1:30 p.m.

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